



**UNITED STATES POSTAL SERVICE  
OFFICE OF INSPECTOR GENERAL**  
1735 NORTH LYNN STREET  
ARLINGTON, VA 22209-2020

**CASE #:** 12UIHQ0063GC37SI      **CROSS REFERENCE #:**  
**TITLE:** SECURITIES AND EXCHANGE COMMISSION OFFICE OF INSPECTOR  
GENERAL, WASHINGTON, DC 20549 - EXECUTIVE MISCONDUCT  
**CASE AGENT (if different from prepared by):**

**REPORT OF INVESTIGATION**

**PERIOD COVERED:** FROM May 30, 2012 TO September 12, 2012

**STATUS OF CASE:** CLOSED INVESTIGATION

**JOINT AGENCIES:**

None

**DISTRIBUTION:**

Jon T. Rymer, Interim Inspector General  
Office of Inspector General  
Securities and Exchange Commission  
100 F St NE  
Washington, DC 20549

<b>PREPARED BY:</b> SPECIAL AGENT (b)(7)(C) (b)(7)(C)	<b>DATE:</b> 9/17/2012
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**RESTRICTED INFORMATION**

This report is furnished on an official need to know basis and must be protected from dissemination which may compromise the best interests of the U.S. Postal Service Office of Inspector General. This report shall not be released in response to a Freedom of Information Act or Privacy Act request or disseminated to other parties without prior consultation with the Office of Inspector General. Unauthorized release may result in criminal prosecution.

## **I. PREDICATION**

On May 30, 2012, the U.S. Postal Service Office of Inspector General (OIG) received a request from U.S. Securities and Exchange Commission (SEC) Interim Inspector General (IG) Jon T. Rymer to investigate allegations of misconduct by former and current senior management officials of the SEC OIG. The misconduct allegations concerned former IG H. David Kotz, Deputy IG (DIG) Noelle Maloney, and Assistant Inspector General for Investigations (AIGI) David Weber.

On June 6, 2012, the Postal Service OIG and the SEC OIG entered into a Memorandum of Agreement under the authority of Section 6(a)(3) of the Inspector General Act, 5 U.S.C. App 3, which allowed the Postal Service OIG to investigate the allegations of misconduct as requested.

## **II. SYNOPSIS**

On March 22, 2012, Weber personally reported allegations of misconduct involving former IG H. David Kotz and DIG Noelle Maloney to the SEC Commissioners. His report was based on information he claimed to have received during a meeting with Maloney the previous day. On March 23, 2012, at the direction of the SEC Commissioners, Weber prepared a memorandum to the Council of the Inspectors General on Integrity and Efficiency (CIGIE) Integrity Committee (IC) reporting the same issues. Weber's report to the Commissioners and memorandum to the CIGIE IC both outlined a number of specific concerns regarding former IG David Kotz' conduct, as well as concerns about Deputy IG Noelle Maloney's failure to report that misconduct.

After Weber reported this information to the SEC Commissioners, they directed that Maloney should no longer supervise Weber or SEC OIG investigations. Thereafter, a number of SEC OIG employees submitted complaints about Weber to the SEC Security Office. The employees alleged Weber was creating a hostile work environment and they claimed they felt threatened by his behavior. Based on an interim review by AT-RISK International, an external security contractor, SEC management placed Weber on administrative leave.

This investigation focused on the following specific issues:

- Whether Kotz engaged in misconduct by participating in inappropriate relationships that created conflicts of interest and whether he misused his position to improperly influence on-going investigations and audits to the benefit

of those with whom he had the relationships or to further his own personal financial interests.

- Whether SEC OIG management engaged in misconduct related to the handling of investigative complaints, reporting of conflicts of interest, addressing personnel issues, and improperly influencing witness statements against Weber.
- Whether Weber engaged in misconduct, either by creating a hostile work environment or by making false statements.

The investigation ultimately determined the following:

- The investigation did not substantiate that Kotz and Dr. Gaytri Kachroo, an attorney representing the victims in the Stanford Receivership investigation, had a romantic or sexual relationship. However, the investigation determined there was evidence that Kotz had personal relationships with both Kachroo and Madoff Ponzi scheme whistleblower Harry Markopolos. In the case of Kachroo, Kotz appeared to have a conflict of interest related to the initiation and supervision of the Stanford Receivership investigation, because of his personal relationship with Kachroo. One month after opening the Stanford Receivership investigation, he identified Kachroo as a personal business reference and a "personal friend." Despite his relationship with Kachroo, he continued to personally supervise the Stanford Receivership investigation, in violation of CIGIE's investigative standards and the Standards of Ethical Conduct for Employees of the Executive Branch. These standards include a requirement for acting impartially and avoiding any actions that would create the appearance of a violation. The determination for whether an appearance of, or violation of, these standards has occurred is approached from the perspective of a reasonable person with knowledge of the relevant facts.
- The investigation also determined that Kotz was a "very good friend" of Markopolos. It is unclear exactly when they became friends, but documents describe how Markopolos and Kotz became friends as a result of their interactions during the Madoff investigation. If this relationship began before or during the SEC OIG's investigation into the SEC's failure to uncover or prevent the Madoff Ponzi scheme, then Kotz would have been in violation of CIGIE's investigative standards and the Standards of Ethical Conduct for Employees of the Executive Branch.
- Kotz had a personal relationship with SEC employee (b)(7)(C) Extensive email correspondence and various witness statements confirmed Kotz and

(b)(7)(C) spent an extensive amount of time alone together in his office and outside of work. Kotz and (b)(7)(C) were also comfortable sharing personal and private information with each other over email and communicated during times that were well outside normal duty hours. These flirtatious communications occurred during the period of the SEC OIG's review of the restacking project, which he led. The investigation could not find any evidence that Kotz interfered with the inquiry or materially changed the resulting report as a result of this relationship. However, Kotz should have recused himself to assure that conflicts of interest did not manifest themselves more subtly in revealed biases or nuanced messaging to subordinates.

- Maloney and Mary Beth Sullivan, Counsel to the IG, failed to report their knowledge of Kotz' inappropriate relationship with (b)(7)(C) and suspicions regarding Kachroo. Maloney admitted she discussed with Sullivan rumors that Kotz had a romantic relationship with both Kachroo and (b)(7)(C). In the case of (b)(7)(C), Sullivan notified Maloney in 2008 or 2009 that (b)(7)(C) and Kotz were communicating via phone and emails after duty hours, and that some of the email communications were of a personal nature. This information should have caused Maloney and Sullivan to elevate their concerns to SEC management or CIGIE, to ensure that Kotz did not have a conflict of interest with regards to the Restacking Project audit, the Stanford Receivership investigation, or the Madoff investigation.
- The evidence indicates SEC OIG management took reasonable actions with regards to performance concerns involving Weber prior to his March 22, 2012, report to the SEC Commissioners. However, Maloney subsequently failed to report her concerns about Weber to management so that appropriate action could be taken. Maloney told investigators how she became afraid of Weber after March 22, 2012, when he was reassigned to report to Jacqueline Wilson, Assistant IG for Audits. She indicated he would eavesdrop on her conversations, would follow her around in the SEC building, and brushed against her once as she was walking by him in the hall. As a result of this behavior, she altered her routes in the building and hid in bathrooms to avoid him. She also claimed to have contacted the police department as a precaution against him showing up at her house (a claim which was not supported by that department). However, she did not report any of these concerns to his manager for appropriate action.
- There was no evidence that SEC OIG management influenced employees to falsify or exaggerate their testimony or statements regarding Weber. Instead, there is evidence that two employees ((b)(7)(C) and Attorney (b)(7)(C)) were responsible for recruiting co-workers to join

them in filing complaints against Weber. As background, (b)(7)(C) was disciplined by Weber on (b)(7)(C) and provided one of the key statements which was the basis for Weber being placed on administrative leave (b)(7)(C)

- The investigation did not substantiate allegations that Weber created a hostile work environment or displayed threatening behavior within the workplace. However, two specific complaints regarding Weber had some merit and both were closely examined by investigators. The first was an OIG (b)(7)(C) who was not afraid physically of Weber, but was fearful of losing (b)(7)(C) job if (b)(7)(C) did not accomplish the tasks he assigned (b)(7)(C). The second complaint involved an OIG

(b)(7)(C)

(b)(7)(C)

Both of these specific concerns regarding Weber's conduct were ultimately management issues to address, not security-related concerns.

- The investigation did not establish that Weber made any intentional false statements or engaged in deliberately unprofessional conduct (such as mischaracterizing evidence to prosecutors). The evidence indicates that Weber's conduct was a management performance issue, not a security-related issue.

This investigation did not undertake an assessment of Weber's suitability to return to the workplace or examine allegations of leaks to the media from within the SEC or SEC OIG. Also, with regards to potential concerns regarding Whistleblower retaliation, those matters were not investigated by the Postal Service OIG, but were forwarded to the Office of Special Counsel, which agreed to investigate any complaints it received.

### III. BACKGROUND/SUBJECT IDENTIFICATION

H. David Kotz started working at the U.S. Peace Corps in 2002 and was selected to be the Peace Corps' IG in 2006. On December 5, 2007, the SEC selected Kotz to be the SEC's IG. On January 27, 2012, Kotz left his SEC IG position to work for a private company (Exhibits 1-4).

Noelle Maloney (also known as Noelle Frangipane) worked at the Peace Corps from November 2002 through January 2005. In January 2005, she was hired at the SEC as a Senior Counsel. She was selected for the position of SEC OIG Deputy IG in July 2008. The SEC Commission named Maloney as the SEC Acting IG on January 27, 2012. Maloney resigned from the SEC OIG on August 17, 2012, while the Postal Service

OIG's investigation into these matters was on-going. Following her resignation, investigators requested a follow up interview with Maloney and on August 28, 2012, Maloney's counsel advised that she declined to participate in any further interviews (Exhibits 5-7).

David Weber was previously an attorney with the Department of Treasury, Office of Comptroller of the Currency, Enforcement and Compliance, from 2000 to 2010. From 2010 to the end of 2011, Weber was Supervisory Counsel in the Legal Division for the Federal Deposit Insurance Corporation (FDIC). (b)(7)(C)

(b)(7)(C)

(b)(7)(C)

In December 2011, Weber applied for the SEC OIG AIGI position (b)(7)(C) and was selected. Weber reported to work at the SEC OIG on January 4, 2012 (Exhibits 4, 5, 8, 9, lines 128-208).

Dr. Gaytri Kachroo is a business ethics attorney and victim advocate. After receiving a telephone call on December 11, 2008, from Bernard Madoff Ponzi scheme whistleblower Harry Markopolos, she became the lead counsel for the "Fox Hound" whistleblowers. In October 2009, Kachroo announced she was stepping down from her position as international practice chair at the law firm McCarter & English and launching her own firm. On January 24, 2011, Kachroo publicized her intention to represent the Stanford victims in U.S. District Court, Northern District of Texas, in the Robert Allen Stanford Ponzi scheme. In a letter to Kotz dated July 8, 2011, Kachroo requested an independent investigation into the operation of the SEC-designated and Court approved Receiver, Ralph Janvey. In her letter, Kachroo alleged waste and mismanagement, and stated the Receiver has failed to act in the best interests of the Stanford Receivership and the Stanford investors (Exhibits 10-14).

(b)(7)(C)

worked at the SEC as an employee from (b)(7)(C)  
was (b)(7)(C)

(b)(7)(C)

(b)(7)(C) after the publication of the SEC OIG's Review of the Commission's Restacking Project report (Exhibits 15-16).

In September 2007, Project Solutions Group (PSG) was awarded a contract to support the SEC restacking project (Exhibit 17).

Mary Beth Sullivan was hired as the Associate Counsel by the SEC OIG in 1994 and promoted to her current position as Counsel to the IG in 2000 (Exhibit 18).

## Bernard Madoff Ponzi Scheme

From the SEC OIG's *Investigation of Failure of the SEC to Uncover Bernard Madoff's Ponzi Scheme - Public Version*, Report # OIG-509 dated August 31, 2009:

"On December 11, 2008, the Securities and Exchange Commission (SEC) charged Bernard L. Madoff (Madoff) with securities fraud for a multi-billion dollar Ponzi scheme that he perpetrated on advisory clients of his firm. The complaint charged Madoff with violations of the anti-fraud provisions of the Securities Act of 1933, the Securities Exchange Act of 1934 and the Investment Advisers Act of 1940. In addition, the U.S. Attorney's Office in the Southern District of New York also indicted Madoff for criminal offenses on the same date. On March 12, 2009, Madoff pled guilty to all charges and on June 29, 2009, federal District Judge Denny Chin sentenced Madoff to serve 150 years in prison, which was the maximum sentence allowed.

By mid-December 2008, the SEC learned that credible and specific allegations regarding Madoff's financial wrongdoing were repeatedly brought to the attention of SEC staff, but were never recommended to the Commission for action. As a result, on the late evening of December 16, 2008, former SEC Chairman Christopher Cox contacted the SEC Office of Inspector General (OIG) asking them to undertake an investigation into allegations made to the SEC regarding Madoff, going back to at least 1999, and the reasons that these allegations were found to be not credible. Former Chairman Cox also asked that the OIG investigate the SEC's internal policies that govern when allegations of fraudulent activity should be brought to the Commission. In addition, he requested that the OIG investigation include all staff contact and relationships with the Madoff family and firm, and any impact such relationships had on staff decisions regarding the firm."

The SEC OIG's report was highly critical of the SEC's failure to uncover and prevent this fraud and Kotz testified to Congress a number of times on the OIG's findings (Exhibit 19).

## Robert Allen Stanford Ponzi Scheme

In early 2009, Robert Allen Stanford became the subject of several fraud investigations. Stanford was the chairman of the now defunct Stanford Financial Group of Companies. On March 6, 2012, Stanford was convicted on all criminal charges except a single count of wire fraud (Exhibit 20).



The SEC OIG had received a number of complaints regarding the receiver that had been selected to govern recovered funds from this scheme for eventual repayment to victims. One of these complaints included a letter from Kachroo dated July 8, 2011. On July 25, 2011, the OIG initiated an investigation into this matter and its report of investigation, titled *SEC OIG-565, the SEC's Recommendation of and Oversight Over the Court-Appointed Receiver in SEC v. Stanford* (Stanford Receivership investigation), is pending (Exhibit 21).

The final report for the Stanford Receivership investigation remains unpublished. Investigators identified a number of drafts of this report, including a preliminary draft written after Kotz' departure, which concluded the SEC OIG

(b)(5)

" After a review by

Maloney and Weber, the report's conclusion was changed to,

(b)(7)(C)

(b)(5)

[AGENT NOTE: In the email review, on March 22, 2012, Maloney emailed an edited version of the report to the lead investigator with a copy to Weber explaining the comments and edits were from both Maloney and Weber. Kotz was active in the investigation, but the report was written after his departure.]

#### SEC OIG's Review of the Commission's Restacking Project

In October or November 2008, the SEC OIG initiated a review of the SEC's headquarters restacking project because of complaints from SEC staff that the restacking project was not properly approved and initiated, did not serve a useful purpose, and was a waste of the Commission's resources. The results of that review were reported on March 31, 2009, in *Report No. 461, Review of the Commission's Restacking Project* (Restacking Project). This report raised questions about whether the restacking project was necessary and whether it had any meaningful impact on communication among, or productivity by, the staff. It also noted that the former head of the Office of Administrative Services was not in favor of the project, but was given "marching orders" to go forward with it anyway (Exhibit 17).

#### IV. DETAILS

**Allegation #1: Former IG H. David Kotz engaged in misconduct by participating in inappropriate relationships and by misusing his position to improperly influence an SEC OIG investigation and an audit.**

**Issue #1a: Kotz allegedly had an inappropriate relationship with Dr. Gaytri Kachroo, attorney for the Stanford Ponzi scheme victims, which potentially impacted the Stanford Receivership SEC OIG investigation. Kotz' actions also created a conflict of interest concerning the Stanford investigation.**

**Issue #1a Findings:**

**AIIG David Weber's Memorandum to CIGIE Integrity Committee (IC), dated March 23, 2012**

In his March 23, 2012, memorandum to the CIGIE IC, Weber expressed concerns about the investigative report titled *SEC OIG-509, Investigation of Failure of the SEC to Uncover Bernard Madoff's Ponzi Scheme* (Madoff investigation) as well as the pending SEC OIG investigation titled *SEC OIG-565, the SEC's Recommendation of and Oversight Over the Court-Appointed Receiver in SEC v. Stanford* (Stanford Receivership investigation) (Exhibits 22-24). The memo indicated that both investigations might have been affected by relationships between Kotz and key individuals in each investigation, one of whom was Dr. Gaytri Kachroo.

Weber's memorandum explained that Maloney received an email from Kachroo on March 16, 2012, requesting a meeting to discuss new potential information concerning the Stanford Receivership investigation. After being informed of this by Maloney, Weber arranged a meeting for March 23, 2012, which included Kachroo, Kachroo's assistant, Weber, and lead OIG Investigator Elizabeth Fitzgerald (also known as Elizabeth Leise).

The memorandum indicated that on March 21, 2012, Weber and Maloney met to discuss the upcoming Kachroo interview. During the meeting, Maloney told Weber that Kotz and Kachroo were involved in a sexual relationship and Kachroo received "special treatment" as a result of that relationship. Additionally, Maloney questioned whether the SEC OIG would have opened the Stanford Receivership Investigation at all if not for that relationship.

**Interviews of David Weber, AIIG**

During his interviews with Postal Service OIG investigators, Weber confirmed his statements contained in the March 23<sup>rd</sup> memo to the CIGIE IC (Exhibit 22). He also provided background information regarding the Stanford investigation. Weber explained that the SEC OIG's case tracking system showed the SEC OIG initiated its investigation of the Stanford Receivership "shortly" after Kachroo filed a complaint in July 2011. [AGENT NOTE: As reference, Kachroo wrote her complaint letter to the SEC OIG on July 8, 2011. The SEC OIG initiated its investigation on July 25, 2011 (Exhibit 13).] Weber believed other complaints were received prior to Kachroo's complaint, but those did not result in the opening of an investigation. Kachroo represented the Stanford Victims Coalition group and, as best as he could tell, the investigation was initiated based exclusively on Kachroo's complaint letter (the case was initiated 17 days after Kachroo's letter was sent) (Exhibit 25, lines 2923-2928, 2093-2105).

He told investigators that the final Stanford report was going to conclude (b)(5) (b)(5) the receiver, which was the entity Kachroo wanted them to investigate. Kachroo felt the receiver was principally employing a large law firm to accomplish his responsibilities, which meant too many recovered assets had gone to paying the lawyers, not the victim investors. The SEC OIG's investigation had determined (b)(5) (b)(5) Weber intended to share that information with Kachroo at their scheduled March 23, 2012, meeting and to attempt to explain the difference between the SEC OIG's role and the U.S. Court's role (Exhibit 25, lines 2010-2025 and 2041-2045).

Weber indicated that the first time he heard any "sexual stuff" involving Kotz and Kachroo was when Maloney told him about them during their meeting on March 21, 2012. Maloney told him, "I'm not even sure we would have had this investigation opened if it hadn't been for the affair." Weber believed Maloney meant Kachroo received special consideration because of her (Kachroo's) relationship with Kotz. Weber said Maloney presented this information to him as a fact, not a rumor (Exhibit 25, lines 2262-2265 and 2273-2282).

During that same meeting, Maloney confided that Kotz showed her "text messages" of a personal nature from Kachroo on his personal phone. Maloney told him the text messages were sent to Kotz the day that Kachroo was in the SEC OIG's office providing testimony on the Stanford Receivership matter (Exhibit 25, lines 2315-2317 and 2334-2338).

[AGENT NOTE: On September 12, 2012, Weber underwent a polygraph examination administered by the Postal Service OIG. Weber's responses to several questions related to his report to the Commissioners and the CIGIE IC did not indicate deception.

During the examination, Weber affirmed that he was directly told by Maloney that Kotz had an affair with Kachroo and that the affair occurred while at least one investigation was on-going (Exhibit 26).]

Deputy IG Noelle Maloney's Response Letter to CIGIE IC, dated April 23, 2012

Maloney sent the CIGIE IC a response to Weber's complaint in a letter dated April 23, 2012 (Exhibit 27). In her letter, Maloney disputed a number of statements made by Weber in his March 23<sup>rd</sup> letter, including the claim that Maloney told him Kachroo and Kotz were having an affair. Maloney's letter stated, "I do not now nor have or had at any time, actual knowledge of an affair or sexual relationship between Mr. Kotz and Dr. Kachroo, and I have no knowledge nor have I seen any evidence that Dr. Kachroo has received any 'special treatment' by the SEC OIG." Maloney's letter also affirmed that she did not tell Weber that Kotz had shown her text messages he had received from Kachroo.

Maloney's letter also disputed Weber's assertion that Kachroo requested a meeting to "discuss new potential information concerning the investigation." Maloney did not believe Weber's statement was accurate, stating, "To my knowledge, Dr. Kachroo did not indicate why she wished to meet with the OIG."

[AGENT NOTE: On March 16, 2012 at 6:47 p.m., Maloney received an email from Kachroo in which Kachroo wrote, "In conjunction with your offices investigation of the Stanford receivership, please find attached an additional list of witnesses that may be helpful. Please let me know if we can schedule a time to meet next Friday" (Exhibit 28).]

Interview of Noelle Maloney, Deputy IG

Maloney indicated to investigators that Weber was the one who brought up the possibility of a relationship between Kotz and Kachroo in their March 21, 2012, meeting. Maloney admitted she and Sullivan had joked about the possibility of Kotz and Kachroo having a relationship in the past, but she denied starting the original rumor of an affair (Exhibit 9, lines 953-963, 1013-1014, and 1038-1041).

Maloney said the rumors of an affair between Kotz and Kachroo did not impact the integrity of the Stanford Receivership report, in her opinion. She explained that their investigation of the SEC's actions with regards to the selection and oversight of the receivership was conducted by SEC OIG Investigator Elizabeth Fitzgerald, who Maloney described as being an "excellent investigator." The investigation was discussed on a monthly basis with the entire investigative staff and no one raised concerns about the direction or findings of investigation. To the best of her knowledge,

Kotz did not alter the investigative steps or direction of the case (Exhibit 9, lines 1193-1197 and 1273-1293).

Regarding the investigative results, Maloney said, "We were, in fact, going to come out (b)(5) So it seemed to me that it was, uh, very solidly written, factually supported within our jurisdiction" (Exhibit 9, lines 1211-1214).

[AGENT NOTE: (b)(5),(b)(7)(A)

(b)(5),(b)(7)(A)

(b)(5),(b)(7)(A)

(Exhibit 21)]

Maloney resigned from the SEC OIG on August 17, 2012, while the Postal Service OIG's investigation into these matters was on-going. Following her resignation, investigators requested a follow up interview with Maloney. On August 28, 2012, Maloney's counsel advised that she declined to participate in any further interviews (Exhibits 6 and 7).

#### Interview of SEC Commissioner Daniel Gallagher

During his interview with investigators, Commissioner Gallagher provided an overview of the presentation he received from Weber on March 22, 2012, regarding his (Weber's) conversation with Maloney. The details of that presentation largely matched the details contained in Weber's written complaint to CIGIE's Integrity Committee, with one exception. Commissioner Gallagher indicated that Weber told him that the source of his complaint was an unidentified source (which Weber would not identify to him), not Maloney (Exhibit 29).

#### Interview of Mary Beth Sullivan, Counsel to the IG

During her interviews with investigators, Sullivan said Kachroo provided information to Kotz related to both the Madoff and Stanford Receivership investigations (Exhibits 18 and 30). Sullivan was unaware of any inappropriate relationship between Kotz and Kachroo and only met her once when Sullivan had a brief conversation with her. When Sullivan was asked by investigators if she suspected anything inappropriate about Kachroo's relationship to Kotz, she replied, "No, not really." However, in some of her conversations with Maloney, Maloney raised questions or speculated about the nature of Kotz' and Kachroo's relationship. Sullivan indicated there was nothing "concrete" to

their speculation, meaning they had no proof of an inappropriate relationship. She was also never shown the text messages that Maloney allegedly showed to Weber. At other times, Maloney made comments to her speculating about Kotz' relationship with a few other women, but nothing that made Sullivan believe anyone was involved in misconduct.

She denied that any investigation was initiated or not initiated due to inappropriate relationships, coercion, or influence. She had no knowledge of any inappropriate relationship affecting the results in any reports.

#### Interview of former senior SEC OIG official

(b)(7)(C) was hired by Kotz and described the work environment during (b)(7)(C) tenure as unprofessional. (b)(7)(C) said this was due to Kotz allowing Maloney to act childishly, particularly when she believed her authority was being challenged. (b)(7)(C) explained that Kotz conducted investigations and drafted investigative reports, but did not believe Kotz altered, changed, or directed findings of audits or investigative work in an inappropriate manner (Exhibit 31).

(b)(7)(C) was (b)(7)(D) on the Madoff investigation and had no knowledge of a personal relationship between Kotz and Kachroo. The official was only aware of a professional relationship between Kotz and Kachroo, and did not believe the Madoff investigation report was affected by that relationship.

#### Interview of David Witherspoon, SEC OIG Associate Counsel

Witherspoon explained that Kotz initially assigned the Stanford Receivership investigation to him (Exhibit 32). He indicated that he and Kotz discussed how the investigation would focus on the criteria and the process SEC used to select and recommend the court-appointed receiver.

[AGENT NOTE: In a July 21, 2011, CNBC article titled "*SEC Probing Stanford Receiver for Keeping \$118 Million*," Kotz was quoted as saying, "We did receive a complaint recently about Stanford receivership-related issue...We have looked at it and plan to open up an inquiry or investigation with respect to allegations regarding improper conduct of SEC employees." The SEC OIG's investigation into the Stanford Receivership was initiated four days later on July 25, 2011 (Exhibit 33).]

Witherspoon was assigned the investigation for about a month when Kotz reassigned it to Investigator Elizabeth Fitzgerald. Kotz did not discuss his reason for reassigning the case with Witherspoon, but Witherspoon attributed the reassignment of the case to a re-

distribution of workload. Witherspoon told investigators he was not aware of anyone within the SEC OIG who inappropriately influenced either the Madoff or the Stanford Receivership investigations, or any other OIG investigation, audit, report, or project.

#### Interview of Elizabeth Fitzgerald, SEC OIG Investigator

Fitzgerald told investigators that Kotz reassigned the Stanford Receivership investigation from Witherspoon to her soon after she joined the office (Exhibit 34). She explained that Kotz had previously talked to numerous investor victims, but Kachroo's July 2011 complaint letter appeared to have contributed to Kotz' decision to open the investigation. Fitzgerald believed Kachroo's complaint appeared to be valid and there was a need for the SEC OIG to research the SEC's recommendation of, and oversight over, the receiver role. Fitzgerald believed Kotz knew Kachroo from his interactions with her during the Madoff investigation, but she had no knowledge of a personal relationship between Kotz and Kachroo.

She explained that Kotz was active in the Stanford Receivership investigation, reviewing and approving draft interview questions. Fitzgerald said no investigative steps were added, deleted, or influenced by Kotz. Kotz did not travel to meet the receiver or any victims, including those represented by Kachroo. Fitzgerald also stated that the final Report of Investigation (ROI) for the case was not drafted until after Kotz left the SEC OIG.

#### Interview of former senior SEC OIG official

The official (b)(5),(b)(7)(C) (b)(5),(b)(7)(C) speculated that the investigation might have been prompted by other Stanford Receivership complaints the SEC had received, not simply Kachroo's complaint. The official believed the Stanford Receivership complaints were not within the OIG's jurisdiction and told Kotz of this fact, advising Kotz not to open the investigation. Kotz never explained to the official why he opened the investigation. (b)(7)(C) (b)(7)(C) (b)(7)(C) (Exhibit 31).



### Interview of Jacqueline Wilson, AIG of Audits

Wilson stated that the Stanford Receivership report was not published while she supervised the Office of Investigations. Wilson did not know who decided that the report would not be published (Exhibit 35).

### SEC OIG Employee Interviews

Investigators conducted interviews of several SEC OIG employees and asked all of them if they believed anyone had inappropriately influenced the initiation or conduct of the Madoff or the Stanford investigations, or any other OIG investigation, audit, report, or project (Exhibits 36-38). They were also asked if they were aware of any inappropriate relationships that may have improperly influenced these same matters. All of the employees denied having any knowledge of these types of influence.

### Forensic Email Analysis and Review

Investigators conducted a forensic review of all emails on the SEC email servers and government issued computers of Kotz, Maloney, and Weber, in an attempt to identify email correspondence between Kotz and Kachroo. None of the email correspondence suggested that a romantic or sexual relationship existed between Kotz and Kachroo. All emails reviewed appeared to professional or business-related in nature (Exhibit 39).

### Forensic Document Analysis and Review

Investigators conducted a forensic review of all email attachments on the SEC email servers and files from the assigned government computers for Kotz, Maloney, and Weber, in an attempt to identify any documents that might help in determining the nature of the relationship between Kotz and Kachroo. During that review, investigators identified various revisions of a document on Kotz' government computer titled "Confidential Business Plan" (Exhibit 40). Kotz' business plan identified Kachroo not only as a personal business reference, but as a "personal friend." The variations of this document appeared to outline a future business venture. These documents were created on January 4, 2010, and modified several times before his departure from the SEC OIG on January 27, 2012. As a reference, Kotz was selected to be the SEC IG on December 5, 2007. The SEC OIG's investigation of the Madoff Ponzi scheme was initiated on December 16, 2008, and the report was issued on August 31, 2009. The SEC OIG's Stanford Receivership investigation was initiated on July 25, 2011, and the report remains unpublished.



Drafts dated January 4, 2010, and January 22, 2010, listed Markopolos as a personal contact ("very good friend"), but did not list Kachroo as a contact at all. Kotz emailed this business plan to (b)(7)(C) (a Google search of this address identified it as belonging to Jane Roberts, Partner, Major, Lindsey, & Africa (a legal recruiting firm) (Exhibit 41)).

The August 2011 and December 2011 updated drafts of this document listed Kachroo as a personal contact in addition to Markopolos. As a reference, Kachroo sent her complaint letter regarding the Stanford Receivership investigation to the SEC OIG on July 8, 2011, and the SEC OIG initiated its investigation on July 25, 2011.

CIGIE Quality Standards for Inspection and Evaluation, dated January 2012, (Exhibit 42) states:

*"The actions of OIG staff conform to high standards of conduct, including adherence with the 'Standards for Ethical Conduct for Employees of the Executive Branch' and Federal conflict-of-interest laws'."*

CIGIE Quality Standards for Investigations, dated November 15, 2011, (Exhibit 43) states:

*"In all matters relating to investigative work, the investigative organization must be free, both in fact and appearance, from impairments to independence; must be organizationally independent; and must maintain an independent attitude."*

*This standard places upon agencies, investigative organizations, and investigators the responsibility for maintaining independence, so that decisions used in obtaining evidence, conducting interviews, and making recommendations will be impartial and will be viewed as impartial by knowledgeable third parties. There are three general classes of impairments to independence: personal, external, and organizational.*

#### **Guidelines**

***Personal Impairments—Circumstances*** may occur in which an investigator may experience difficulty in achieving impartiality because of their views and/or personal situations and relationships. These impairments may include the following:

1. *Official, professional, personal, or financial relationships that might affect the extent of the inquiry; limit disclosure of information; or weaken the investigative work in any way;*

2. *Preconceived opinions of individuals, groups, organizations or objectives of a particular program that could bias the investigation;*
3. *Previous involvement in a decision making or management capacity that would affect current operations of the entity or program being investigated;*
4. *Biases, including those induced by political or social convictions that result from employment in, or loyalty to, a particular group or organization; and*
5. *Financial interest in an individual, an entity, or a program being investigated."*

Standards of Ethical Conduct for Employees of the Executive Branch (Exhibit 44):

*Subpart E – Impartiality in Performing Official Duties*

*2635.501 Overview.*

*(a) this subpart contains two provisions intended to ensure that an employee takes appropriate steps to avoid an appearance of loss of impartiality in the performance of his official duties.*

*2635.502 Personal and business relationships.*

*(a) Consideration of appearances by the employee. Where ... "the employee determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question his impartiality in the matter, the employee should not participate in the matter unless he has informed the agency designee of the appearance problem and received authorization from the agency designee..."*

Interview of H. David Kotz, former SEC Inspector General (IG)

During his interview with investigators on September 4, 2012, Kotz indicated that the SEC OIG had received several complaints regarding the Stanford receiver prior to receiving Kachroo's July 8, 2012, letter (Exhibit 45). Kachroo's letter was the first clearly articulated complaint against the receiver and Kotz confirmed that this letter was the primary basis for initiating the investigation.

Kotz stated there was no physical, romantic, or sexual relationship between himself and Kachroo. However, he indicated that he did meet with her after his departure from the SEC OIG in an effort to “drum up business” for his new employer. He indicated that their meeting did not result in a close business relationship or additional work for his company.

Kotz said his relationship with Kachroo had no impact on the direction or findings of the Stanford Receivership investigation. Kotz believed the SEC OIG had jurisdiction to investigate portions of the matter, but not as broad a jurisdiction as the investors’ groups believed.

#### Attempt to Interview Dr. Gaytri Kachroo

On September 4, 2012, Postal Service OIG investigators attempted to contact Kachroo to schedule an interview relative to this investigation. Kachroo did not respond to this request.

**Summary of Findings:** The evidence outlined above did not substantiate that Kotz and Kachroo had a romantic or sexual relationship. However, the evidence indicates Kotz had a personal relationship with both Kachroo and Markopolos. Kotz’ relationship with Kachroo created a conflict of interest related to the initiation and supervision of the Stanford Receivership investigation, a violation of CIGIE’s investigative standards and the Standards of Ethical Conduct for Employees of the Executive Branch. It is unclear exactly when Kotz and Markopolos became “very good friends.” However, if their relationship began before or during the SEC OIG’s investigation into the SEC’s failure to uncover or prevent the Madoff Ponzi scheme, then Kotz would have had a conflict of interest and been in violation of CIGIE’s investigative standards and the Standards of Ethical Conduct for Employees of the Executive Branch.

**Issue #1b: Kotz allegedly had an inappropriate relationship with SEC employee (b)(7)(C) during an SEC OIG audit that created a conflict regarding the SEC OIG Audit (Commission’s Restacking Project/Report #461).**

#### **Issue #1b Findings:**

##### **Restacking Project Background**

In 2006, the SEC Commission moved into a new headquarters building in Washington, DC, known as Station Place. After the initial move, management made a decision to

reorganize where everyone was seated in the building and initiated a restacking effort involving approximately 1,750 employees (Exhibit 17).

As a result of the move to its new headquarters building and the subsequent restacking of its employees, the SEC incurred significant costs and budget overruns. In October or November 2008, the SEC OIG initiated a review of the restacking project because of feedback (complaints) from SEC staff that the restacking project was not properly approved and initiated, did not serve a useful purpose, and was a waste of the Commission's resources. In response, the SEC OIG review was initiated with a focus on whether the restacking project was conducted in accordance with applicable policies and procedures, and whether an appropriate analysis or study was conducted to determine if the restacking project was cost effective and beneficial to the agency. The results of that review were reported on March 31, 2009, in *Report No. 461, Review of the Commission's Restacking Project* (Restacking Project).

[AGENT NOTE: The SEC OIG conducted a survey of SEC employees to gauge the effectiveness of the restacking project in terms of employee communication and effectiveness. Among the comments to the survey were various statements that included employee complaints and criticisms.]

Essentially, the report found that senior SEC managers believed the original configuration impeded effective communication and collaboration among staff within divisions and offices. Consequently, in or about February 2007, the Chairman asked the Executive Director to explore the idea of restacking the Commission staff. Although a cost-benefit analysis was supposed to have been conducted, there was no record of any such analysis or feasibility study being done. There was also no survey or study conducted to determine if the existing configuration was actually impeding communication, or any formal analysis of whether the cost and disruption caused by the project would outweigh the perceived benefits of improved communication. The SEC failed to comply with Office of Management and Budget (OMB) requirements and guidance for analyzing and justifying major capital investments and did not complete the form that had to be submitted to OMB for such projects.

The report raised questions about whether the restacking project was necessary and whether it had any meaningful impact on communication among, or productivity by, the staff. It was noted in the report that the former head of the Office of Administrative Services was not in favor of the project, but was given "marching orders" to go forward with it anyway. The report also included a footnote that the SEC OIG's review was not conducted in accordance with generally accepted government auditing standards.

[AGENT NOTE: Based on information obtained from the SEC OIG's lead auditor (Exhibit 46) and a review of the audit work papers by the Postal Service OIG auditors (Exhibit 47), investigators determined that the SEC OIG decided to evaluate the restacking project as a review instead of an audit in order to more quickly issue a report for inclusion in the spring semi-annual report to Congress (the final restacking audit report was dated March 31, 2009.)]

Postal Service OIG Review of the SEC OIG's Work Papers and Final Report  
Addressing the SEC's Restacking Project

A review of the SEC OIG's audit work papers, final report, and the PSG contract did not reveal anything to suggest that the review or the conclusions in the final report were unduly altered, or that there was undue influence from the SEC OIG management or (b)(7)(C) Exhibit 47). The examination of the records showed there was a sharp disagreement between SEC management and the SEC OIG over the report's findings.

The Postal Service OIG's review of the audit determined the following:

- Postal Service OIG's auditor found that the SEC OIG's conclusions were adequately supported by the included work papers and there was no evidence of a cost-benefit or similar study done to justify restacking. However, the review found that it was unclear whether the restacking project would have fallen under the requirements of OMB Circular A-11, Part 7. SEC management strongly disagreed over the applicability of the circular.
- Postal Service OIG's auditor also agreed with SEC's management that the SEC OIG relied too heavily on an employee survey in drawing conclusions and making recommendations in the report. Empirical evidence should have been gathered to support the report's conclusions and conclusions drawn from responses to certain survey questions were debatable.
- With regards to (b)(7)(C) the Postal Service OIG auditor determined that she (b)(7)(C) modification proposal.

Other items observed:

- The contract with the company selected to support the restacking (PSG), was not included in the work papers. This is a significant shortcoming.

- The *Quality Standards for Inspections* state supervisory review should have been part of the review. While there was evidence of supervisory review of the report, there was no readily apparent evidence of supervisory review of the work papers.
- Various work papers had no initials of the auditor or anyone else indicating whether the work was completed or done, by whom, or when. In certain instances, the work papers stated "OAS representatives indicated" and "OAS suggested." The individuals who spoke should have been identified.
- Various questions and concerns were raised regarding the final report's clarity and relevance. An example is a statement that an SEC department "was given 'marching orders' to go forward with the project," without explaining who provided the instructions. In another example, there was repeated discussion of a prior GAO report citing \$48 million in unbudgeted costs from a prior SEC relocation. The repeated citing of this report is out of proportion to its relevance to the restacking project.

The PCIE/ECIE's *Quality Standards for Inspections*, January 2005 (in existence at the time of the review) defines an inspection " . . . as a process that evaluates, reviews and/or analyzes the programs and activities of a Department/Agency for the purposes of providing information to managers for decision making, making recommendations for improvements to programs, policies, or procedures . . . Inspections may be used to provide factual and analytical information; monitor compliance; . . . share best practices . . . ." These standards also state each OIG should develop internal policies that should include controls needed to ensure compliance with these standards. In this review, the SEC OIG provided factual and analytical information, monitored compliance, and shared best practices. Accordingly, the SEC OIG should have followed the PCIE/ECIE's *Quality Standards for Inspections* and cited them in the report.

ALGI David Weber's memorandum to CIGIE Integrity Committee (IC), dated March 23, 2012

In his March 23, 2012, memorandum to the CIGIE IC, Weber expressed concerns about the SEC OIG audit titled *Report No. 461, Review of the Commission's Restacking Project* (Restacking Project) (Exhibit 22). The memo described a meeting he had with Maloney on March 21, 2012, in which Maloney told Weber that Kotz had an affair with "one of the key SEC personnel" involved in the SEC's restacking effort. Maloney told Weber the affair occurred during the SEC OIG's restacking project review.

### Interviews of David Weber, AIGI

Weber told investigators that Maloney did not mention (b)(7)(C) by name in their March 21, 2012, conversation. However, in that meeting, Maloney told him that Kotz and a key person involved in the SEC restack audit were having sexual relations. He believed she told him this in an attempt to illustrate her belief that Kotz engaged in a pattern of inappropriate relationships with others, since Weber exhibited skepticism of her statement that Kotz and Kachroo were having an affair. She also told him that she believed Sullivan also knew of the relationship between Kotz and (b)(7)(C) (Exhibit 25, lines 2380-2389, 2400, 2405-2420, 2866-2870).

Weber told investigators that he connected (b)(7)(C) name with a FOIA request from attorney Harvey Pitt's firm. Weber believed that (b)(7)(C) was the person Maloney was referring to in their March 21<sup>st</sup> conversation (Exhibit 25, lines 2441-2442, 2668-2675).

With regards to the SEC OIG review of the Restacking Project, Weber said that Assistant Inspector General for Audit (AIGA) Jacqueline Wilson told him Kotz and Sullivan took over the audit of the SEC restacking effort from the assigned auditor (Exhibit 25, lines 3910-3924).

### Interview of Noelle Maloney, Deputy IG

Maloney told investigators she spoke to Weber about (b)(7)(C) but did not recall discussing (b)(7)(C) at the March 21, 2012, meeting as described in Weber's memorandum to the CIGIE IC (Exhibit 20). Instead, Maloney believed she spoke with Weber about (b)(7)(C) in a meeting in Weber's office prior to March 21<sup>st</sup>. She believes Weber asked her specifically about who (b)(7)(C) was and she responded to him that (b)(7)(C) was a (b)(7)(C). She also told Weber about a FOIA request from Attorney Harvey Pitt's firm, which requested all emails between Kotz and (b)(7)(C). Maloney did not know why Weber asked her specifically about (b)(7)(C) and she denied telling Weber that Kotz and (b)(7)(C) had an affair during their meeting on March 21, 2012, or at any other time (Exhibit 9, lines 1488-1498, 3623-3637, 3783-3792, and 3839-3855).

[AGENT NOTE: Maloney's explanation contradicts Weber's statement regarding their conversation, which he reported the next day to the SEC Commissioners.]

Maloney stated that in 2008 or 2009, she and Sullivan speculated about a possible relationship between Kotz and (b)(7)(C). Maloney said that on multiple occasions, she and Sullivan would "joke" around about (b)(7)(C) and Kotz' relationship. Maloney



indicated Sullivan also told her that (b)(7)(C) had emailed or called Kotz directly (Exhibit 9, lines 3618-3687).

#### Interview of Mary Beth Sullivan, Counsel to the IG

Sullivan explained to investigators that Kotz asked her to edit a response to a Congressional inquiry unrelated to the restacking project review. Kotz told Sullivan to use the government computer in his office to do that work. Sullivan said that on Sunday, September 28, 2008, while editing the report on Kotz' computer, Kotz' office phone rang. Sullivan said it was between 6 p.m. to 9 p.m., and (b)(7)(C) name was displayed on the phone. She did not answer the call, but assumed it was from (b)(7)(C) (b)(7)(C). She also saw an email from (b)(7)(C) "pop up" which described Kotz as being a good dad (Exhibits 18 and 30, lines 116-144, 353-368, and 341-343).

[AGENT NOTE: Investigators identified emails dated September 28, 2008, at 6:59 p.m. and 8:47 p.m. where (b)(7)(C) emailed Kotz, "Are you still there?...Good. Hopefully, you will catch a glimpse of those adorable kids before bedtime." (Exhibit 48)]

Sullivan stated that she and Maloney joked around about the possibility of Kotz and (b)(7)(C) having a relationship. Sullivan admitted to being the originator of this speculation and she indicated that she told Maloney about the emails she had seen (b)(7)(C) send to Kotz. She also told Maloney about the instance where (b)(7)(C) attempted to call Kotz at his office (Exhibit 30, lines 489-542 and 930-944).

Sullivan stated (b)(7)(C) went to Kotz' office for a "fair amount" of private meetings with the door closed. On one occasion, Sullivan also saw Kotz (b)(7)(C) at Ebenezers Coffeehouse near the office. Sullivan had suspicions that they "got close" and had a personal relationship, but she had no additional firsthand knowledge to support those suspicions (Exhibits 18 and 30, lines 462-465 and 859-872).

With regards to Kotz' normal involvement in SEC OIG projects, Sullivan confirmed that Kotz was routinely involved in determining which audits and investigations were opened within the SEC OIG and which staff were assigned to those projects. She stated Kotz was also involved in reviewing and editing reports, and receiving periodic briefings from the investigators and auditors during their projects (Exhibits 18 and 30, lines 1713 – 1773 and 1900-2016).

#### Interview of Jacqueline Wilson, SEC OIG Assistant Inspector General for Audits (AIGA)

Wilson described Kotz as a hands-on manager who controlled every aspect of the SEC OIG office (Exhibit 35). She stated that Kotz determined what audits were conducted



and participated in the planning and scoping of some audits, to include staff assignments. She characterized Kotz as someone who was more interested in getting his name in the newspaper and focusing on the work he thought would be newsworthy. She believed Kotz initiated the restack project review because of a newspaper article written about SEC's restacking effort. She also believed that Kotz made decisions to conduct audits based on referrals from unknown members of his synagogue.

Wilson had misgivings about Kotz' decision to open the restacking project review because the office had already submitted its annual audit plan to the SEC and because the restack was already underway. However, she opened the audit as Kotz directed and assigned it to Auditor (b)(7)(C) who scoped the review to look into SEC's possible failure to consider potential organizational growth in their restacking plans. At some point during the audit, when findings were coming in, Kotz became personally involved in the audit by directly taking it over. For context, Wilson indicated that Kotz had also inserted himself into other audits for similar reasons.

In 2008 or 2009, while the restack audit was underway, Wilson stated that Maloney joked with her about the possibility of an inappropriate relationship between Kotz and (b)(7)(C) pointing out that Kotz and (b)(7)(C) spent a lot of time behind closed doors in his office. Wilson described Maloney as a "gossiper," meaning she talks about people outside of their presence.

Interview of (b)(7)(C) SEC OIG (b)(7)(C)

(b)(7)(C) was assigned by Kotz in late October or early November 2008 (b)(7)(C) auditor for the SEC OIG's review of the Commission's Restacking Project (Exhibit 46). (b)(7)(C) described the review as one requiring a "quick turnaround," because Kotz wanted the review to be published in the March 2009 semi-annual report to Congress.

(b)(7)(C) did not know if this review was part of the OIG's audit plan. He believed the audit was opened because the OIG had received complaints from various levels of SEC employees regarding the restack. (b)(7)(C) did not receive any complaints directly, but believed the complaints focused on whether the restack effort was a proper use of resources.

Because of the aggressive completion date set by Kotz for the project, (b)(7)(C) did not follow Generally Accepted Government Auditing Standards (GAGAS) and conducted it as a "review." At the end of his review, (b)(7)(C) provided (b)(7)(C) findings and recommendations in two draft reports to Wilson and Kotz. (b)(7)(C) findings and recommendations were included in the final report.

(b)(7)(C) explained that Kotz and Sullivan were involved in the audit from its inception, and that their involvement was common practice in the SEC OIG during all audits or investigations. (b)(7)(C) provided the "raw data" or the "meat" of the report to Kotz and Kotz would "wordsmith" the information into a formatted report and provide it back to (b)(7)(C) for review and follow up. Sullivan provided legal advice during the audit and reviewed the report for proper citations of legal opinions. (b)(7)(C) indicated that neither Kotz or Sullivan had any role in conducting the audit, nor did he believe they influenced the direction or findings.

When asked about (b)(7)(C) (b)(7)(C) indicated that (b)(7)(C)  
(b)(7)(C)

Office of Administrative Services, the office conducting the restructure. He was not sure if (b)(7)(C) interacted with higher-level SEC managers. He met with (b)(7)(C) at the beginning of his review (b)(7)(C) sheets. (b)(7)(C) did not attempt to influence him to change direction with the audit, or attempt to influence his findings and recommendations. He did not think (b)(7)(C) had any influence on where departments or individuals would be placed during the restack, saying those decisions were made by SEC's higher-level managers.

Whenever he met with (b)(7)(C) he took notes and possibly put his notes of those discussions in his work papers. Sometimes (b)(7)(C) did not have the information or documentation he was looking for, and (b)(7)(C) directed him to the appropriate point of contact. This is one of the reasons he considered (b)(7)(C)

(b)(7)(C) did not have any knowledge of (b)(7)(C) having a personal relationship with Kotz. He never observed them spending a lot of time together and never witnessed any inappropriate activity between them. (b)(7)(C) could not recall if he saw (b)(7)(C) in the SEC OIG office space or in Kotz' office. (b)(7)(C) did not know (b)(7)(C) well, since (b)(7)(C) only interaction with (b)(7)(C) was while (b)(7)(C) was conducting the audit.

#### Interview of (b)(7)(C) (b)(7)(C) Office of Acquisition Services

(b)(7)(C) explained to investigators that (b)(7)(C) was hired (b)(7)(C) restacking effort. (b)(7)(C) (b)(7)(C) served as the (b)(7)(C) PSG's contract to support the restacking effort and worked with (b)(7)(C) (Exhibit 15). (b)(7)(C) (b)(7)(C) hired by former SEC manager Anne O'Donahue (now deceased) in a similar capacity. (b)(7)(C) recalled that (b)(7)(C) brother and (b)(7)(C) spouse were college roommates.

(b)(7)(C) did not know any details about the relationship between Kotz and (b)(7)(C) or when they met, but she remembered (b)(7)(C) telling her that (b)(7)(C) and Kotz attended the same (b)(7)(C)

(b)(7)(C) did not know why (b)(7)(C) resigned, but noted (b)(7)(C)  
(b)(7)(C)

### Forensic Email Analysis and Review

Investigators conducted a forensic review of all emails on the SEC email servers and SEC government computers issued to Kotz, Maloney, and Weber, in an attempt to identify email correspondence between Kotz and (b)(7)(C) (Exhibit 45). An analysis of the emails discovered by investigators suggests that Kotz and (b)(7)(C) at least had a personal relationship, and possibly had a romantic one. Below are excerpts from some of the emails which were identified during this review:

- On December 31, 2007, SEC OIG Administrative Contact (b)(7)(C) emailed (b)(7)(C) "Hi (b)(7)(C) I know that you have spoken to me concerning our office being a suite and that there was no need to restack but the new Inspector General, David Kotz would like to put in a request for about 5 additional offices."
- On January 2, 2008, (b)(7)(C) replied to (b)(7)(C) "...We wondered if there might be any changes under the new IG and we will be happy to work with you to accommodate your needs."

[AGENT NOTE: The two emails above provide background for why Kotz and (b)(7)(C) likely began to interact.]

- On January 2, 2008, Kotz and (b)(7)(C) had an email discussion:

Kotz to (b)(7)(C) "...I am planning some changes...I would like need the space within 2-3 months. I would happy [sic] to sit down with you to discuss in further detail... Thanks."

(b)(7)(C) responds: "If you have a few minutes tomorrow afternoon, I could drop by to discuss your requirements as well as brief you on our Re-Stacking Project."

Kotz responds: "Tomorrow afternoon is fine..."

- On March 3, 2008, Kotz and (b)(7)(C) had an email discussion:

Kotz to (b)(7)(C) "Hey, what's this about you being out of the office from the 7<sup>th</sup> to the 17<sup>th</sup>? Are you going on another trip to the beach? What about the rest of us who have to suffer in the cold? Can't you take me with you this time?...Seriously, I have a question...I wanted to get my dibs in on the office(s) next to Sam."

(b)(7)(C) to Kotz: "How about St. Moritz? (b)(7)(C) conference there so I am tagging along...with my laptop :). Switzerland is beautiful this time of the year and it would be great having someone to hang out with while (b)(7)(C) is in meetings all day. I will stop by this afternoon when I know more about the offices."

Kotz to (b)(7)(C) "Don't tempt me, I might want to take you up on that offer."

- On March 25, 2008, Kotz and (b)(7)(C) had an email discussion:

Kotz to (b)(7)(C) "I went by a couple of times and your office was dark. Did your cold get worse? Hope you are doing all right."

(b)(7)(C) to Kotz on March 26, 2008: "Yes, I am out but hope to be back tomorrow."

Kotz to (b)(7)(C) "Is it your cold? Are you taking care of yourself? Come back to work soon."

- On July 17, 2008, Kotz and (b)(7)(C) had an email discussion:

Kotz to (b)(7)(C) "How's my girl doing today?"

(b)(7)(C) to Kotz: "That depends...am I your girl?"

Kotz to (b)(7)(C) "I hope you are. When are we getting together today?"

(b)(7)(C) to Kotz: "As it happens...I am. I am meeting with the project team this afternoon but have nothing scheduled so whatever works with your schedule is fine with me. Also, I'm still laughing about our conversation yesterday and I am eager to hear how everything went last night."

Kotz to (b)(7)(C) "How about noon?"

- On July 20, 2008, Kotz and (b)(7)(C) had an email discussion:

(b)(7)(C) to Kotz: "How are you? I have resorted to retail therapy between runs :)."

Kotz to (b)(7)(C) "Nice, what are you buying? How about a short skirt or two?"

(b)(7)(C) to Kotz: "Yikes! No...only long skirts and turtlenecks. Am I exempt from the 'dress code'? :)"

Kotz to (b)(7)(C) "Special exemption for after work get togethers. Sorry I'm fasting today: getting a little delirious."

(b)(7)(C) to Kotz: "Adorable as usual. I read about it and thought you could use a distraction. I would be unconscious by now."

Kotz to (b)(7)(C) "Thanks, I do. How were the runs?"

(b)(7)(C) to Kotz: "Nothing to report...Today, went to work...yuck. Anyway, may go tonight...Anyway look forward to tomorrow...I need it. You are almost done...yes?"

Kotz to (b)(7)(C) "Work on Sundays, that's horrendous. Fast does not end until 9:16 or so I have a ways to go."

(b)(7)(C) to Kotz: "...any runs for you?"

Kotz to (b)(7)(C) "Ran last night, was all right, didn't go very fast. Have a good run tonight."

(b)(7)(C) to Kotz: "Will do. Need to talk about the new job. Think it may not be the right thig [sic] at all after everything that has happened. Would like your opinion..."

Kotz to (b)(7)(C) "What, let's talk tomorrow."

(b)(7)(C) to Kotz: "Still up? (b)(7) managed to pull me back from the edge of the cliff...thankfully. I have a plan...provided you approve. Hope you had something delicious."

Kotz to (b)(7)(C) "Yes, feeling better. I don't quite understand what you mean but anxious to hear about it tomorrow."

(b)(7)(C) to Kotz: "See you then!!"

- On July 21, 2008, Kotz and (b)(7)(C) had an email discussion:

Kotz to (b)(7)(C) "Hey, I came by but you weren't there. Let's talk before you decide anything for sure."

(b)(7)(C) to Kotz: "What? You are in early. I am here. I must have been talking to (b)(7) Won't make a move without your approval!"

Kotz to (b)(7)(C) "Good, when are you available to chat?"

(b)(7)(C) to Kotz: "Need to call you later. OK?"

Kotz to (b)(7)(C) "OK, anytime. Just call or come by."  
(b)(7)(C) to Kotz: "Is this a good time?"  
Kotz to (b)(7)(C) "I have a meeting, how about in 20 minutes?"

- On July 28, 2008, Kotz and (b)(7)(C) had an email discussion:

Kotz to (b)(7)(C) "Well I made it to Yankee Stadium...Had a good day, but I am exhausted. Will need a few days to recover from this trip."  
(b)(7)(C) to Kotz: "...I am sure you are tired but the game will be GREAT. You are still the best Dad I know and we will make sure you have some recovery time. I will let you walk instead of run this week :). Off to run now...without my police escort."

- On July 31, 2008, Kotz and (b)(7)(C) had an email discussion:

(b)(7)(C) to Kotz: "Can we cook something at your house? (b)(7)(C) and I could make you my legendary chicken soup :)"  
Kotz to (b)(7)(C) (August 1, 2008) "Yes, that sounds great."

- On August 17, 2008, Kotz and (b)(7)(C) had an email discussion:

(b)(7)(C) to Kotz: "...hard to find because you can't see it from the street. When you are nearly to Wisconsin Ave., you will make a right into Chevy Chase Center...Bring your parking ticket in for validation. See you soon!"  
Kotz to (b)(7)(C) "Thanks. I just called for reservations, had a crazy day, running around with the kids. They only had a reservation available for 7:30, not 7. But maybe we can meet at 7 anyway, and walk around a bit before dinner? What do you think?"

- On September 28, 2008, Kotz and (b)(7)(C) had an email discussion:

(b)(7)(C) to Kotz: "Are you still there?"  
Kotz to (b)(7)(C) "Yes, Its [sic] not going to happen. And I still don't think I am going to get either of these two out. The document is done, but the appendix won't be ready. But I'm going home now."



(b)(7)(C) to Kotz: "Good. Hopefully, you will catch a glimpse of those adorable kids before bedtime. There is no doubt that you have done your best and they will go out at just the right time. E-mail me if you want to talk later. Otherwise, sleep well."

- On October 2, 2008, Kotz emailed (b)(7)(C) "(b)(7)(C) totaled the minivan, so its [sic] not looking good for tonight."
- On October 17, 2008, Kotz emailed (b)(7)(C) "Hey I got a problem with restacking. Help! I guess originally Noelle's office was supposed to be next to mine...that idea has been scrapped and so Noelle ends up in an interior office, which really isn't fair, given her position (and she isn't pleased about it.)"
- On October 20, 2008, (b)(7)(C) emailed Kotz: "I have reviewed the construction drawings and everything is in order for the layout of your office suite. I have made a copy and added the room assignments so you can review them...In terms of planning, our process begins 9-10 weeks ahead of the move..."
- On January 15, 2009, Kotz emailed (b)(7)(C) "Lots going on; no internet access, my laptop does not work, flight was delayed, go [sic] to the hotel at 11 pm. Future travel plans have been cancelled; will try to call later about space matters."
- On May 16, 2009 (after (b)(7)(C)), at 9:09 p.m., Kotz and (b)(7)(C) had an email discussion:  
(b)(7)(C) emailed Kotz with the subject "Move ?": "Could you please call me when you have a moment. I am afraid that (b)(7)(C) your new locks may not have been ordered."  
Kotz responded at 10:05 p.m., "I'm sorry I just can't call right now. I believe the locks are fine, there is nothing to be particularly concerned about."
- On May 17, 2009, at 2:40 p.m., (b)(7)(C) emailed Kotz a link to a Washington Post article, *Watchdog Digs Into Conduct at SEC*. In the email, (b)(7)(C) wrote to Kotz, "Thanks. I was concerned. Look what I happened to see...ciao."

Interview of (b)(7)(C) SEC OIG (b)(7)(C)

(b)(7)(C) told investigators she believed there was an allegation that Kotz was having an affair with (b)(7)(C) said Kotz and (b)(7)(C) frequently met behind closed doors and (b)(7)(C) did not know why they met like that so often (Exhibit 49).

(b)(7)(C) suggested that investigators speak to SEC (b)(7)(C) about this issue. (b)(7)(C) (b)(7)(C) believed Sullivan showed (b)(7)(C) an email that corroborated a personal relationship between Kotz and (b)(7)(C) (b)(7)(C) did not see the email (b)(7)(C)

Interview of (b)(7)(C) SEC (b)(7)(C)

(b)(7)(C) informed investigators that it was possible Kotz had an affair with "a lady in facilities" identified as (b)(7)(C). She noted Kotz would often leave his computer on in his unlocked office. One morning, Sullivan went into his office between 6 a.m. and 7 a.m. before Kotz arrived for work. When Sullivan departed the office, she approached (b)(7)(C) and made a comment that she had seen an email from (b)(7)(C) which Sullivan described as "not appropriate." Sullivan did not disclose further details to (b)(7)(C) or show the email to her (Exhibit 50).

[AGENT NOTE: During her interview with investigators, Sullivan said she could have had a conversation with (b)(7)(C) about her suspicions regarding Kotz and (b)(7)(C) but it would have been very short. Sullivan and (b)(7)(C) were working closely on projects, so it is possible she (Sullivan) mentioned seeing the email notification, but that it would not have been a detailed or in-depth conversation.]

(b)(7)(C) noted that (b)(7)(C) spent a lot of time with Kotz and was frequently in his office. She stated she had no firsthand knowledge of an affair and did not recall any specific office rumors or gossip concerning Kotz and (b)(7)(C). She also stated she did not discuss her observations about (b)(7)(C) and Kotz with anyone in the office.

Interview of (b)(7)(C) SEC OIG (b)(7)(C)

(b)(7)(C) explained to investigators that he worked as the (b)(7)(C) to the SEC OIG between (b)(7)(C) (b)(7)(C) heard rumors of an affair between Kotz and the (b)(7)(C) lady" who he could not further identify. He could not attribute this rumor to any particular person or recall where he might have heard this rumor originally (Exhibit 51).

(b)(7)(C) worked in an office (b)(7)(C) Kotz and observed an unidentified female meeting with Kotz in his office on a daily basis for one to two hours a day. When she was in Kotz' office, Kotz' door was closed, but he could hear "giggling and laughter." This occurred during the audit of the SEC restacking effort and he never saw this female again after what (b)(7)(C) described as the "squeaky clean" audit report was



released (meaning the audit findings were favorable to the SEC). (b)(7)(C)

(b)(7)(C)

(b)(7)(C) heard that someone witnessed Kotz and this female leave Union Station together in a taxi cab, but could not recall who told him this. He thought it would be "unusual" for Kotz to meet (b)(7)(C) involved in (b)(7)(C) project outside of the office during the audit, since it would give the appearance of impropriety.

(b)(7)(C) described an occasion when he was in the hallway with Maloney and (b)(7)(C) and they saw Kotz and this unidentified female "giggling and laughing." After seeing them, Maloney commented, "it looks like somebody likes somebody." He wondered whether Maloney's comment expressed her professional or personal jealousy.

(b)(7)(C) stated (b)(7)(C) interview, (Exhibit 49)] told him that Sullivan saw an email from the (b)(7)(C) lady" to Kotz while working on Kotz' computer. According to (b)(7)(C) Sullivan was working late one night when an email to Kotz arrived from this female. The email was reportedly described by Sullivan as being "very sexually suggestive" and "inappropriate." (b)(7)(C) did not personally view the email or discuss it further with (b)(7)(C)

[AGENT NOTE: In her interview with investigators, Sullivan said she would not have shared her observation of the email message with (b)(7)(C) Sullivan thought (b)(7)(C) was friendly, but she did not find him honest or trustworthy, so she did not believe she would have said anything to him. Sullivan also said she could not recall sharing any observation of the email message with (b)(7)(C)

Interview of (b)(7)(C) (b)(7)(C) SEC OIG (b)(7)(C)

When asked by investigators about allegations Kotz may have had an inappropriate relationship with someone associated with the SEC restacking effort, (b)(7)(C) said he believed those allegations were pure speculation. (b)(7)(C) said (b)(7)(C) heard comments such as, "Why are they [Kotz and (b)(7)(C)] always behind closed doors?" However, (b)(7)(C) never saw anything to lead (b)(7)(C) they had any kind of relationship (Exhibit 52).

### SEC OIG Employee Interviews

During interviews of SEC OIG employees, investigators asked them if they believed anyone had inappropriately influenced the initiation or conduct of the restack audit, or any other OIG investigation, audit, report, or project. They were also asked if they were

aware of any inappropriate relationships that may have improperly influenced these same matters. All of the employees denied having any knowledge of these types of influence (Exhibits 35-38).

Interview of (b)(7)(C) SEC employee

When investigators attempted to set up an interview with (b)(7)(C) she advised that she (b)(7)(C)

(b)(7)(C) she wanted that part of her life behind her. (b)(7)(C) then declined to speak further with investigators and indicated she wanted to obtain legal counsel.

Through her attorney, (b)(7)(C) subsequently declined to be interviewed by investigators.

Interview of H. David Kotz, former SEC Inspector General (IG)

During his interview with investigators on September 4, 2012, Kotz said the issue of the restacking project review came up in an OIG meeting and the project was assigned to (b)(7)(C) (Exhibit 45).

Kotz denied having any personal, romantic, or sexual relationship with (b)(7)(C) When the emails between Kotz and (b)(7)(C) were discussed, he indicated he was simply talking to her the way he would talk to any other employee. He did not believe any of the emails were inappropriate.

[AGENT NOTE: An analysis of Kotz' emails did not identify any other individual with whom he communicated in a similar manner to the way he communicated with (b)(7)(C)]

Kotz denied that his relationship with (b)(7)(C) caused him to improperly influence the direction or findings of the restacking review.

**Summary of Findings:** The evidence above indicates Kotz had a personal relationship with (b)(7)(C) Extensive email correspondence and various witness statements confirmed Kotz and (b)(7)(C) spent an extensive amount of time alone together in his office and outside of work. Kotz and (b)(7)(C) were also comfortable sharing personal and private information with each other over email and communicated during times that were well outside normal duty hours. These flirtatious communications occurred during the period of the SEC OIG's review of the restacking project, which he led. While the

investigation could not find any evidence that this relationship influenced the findings of the Commission's Restacking Project/Report # 461, Kotz appeared to have a conflict of interest related to the initiation and supervision of the Restacking Project audit, because of his personal relationship with (b)(7)(C) Kotz' apparent relationship with (b)(7)(C) during the SEC OIG's review violates CIGIE's investigative standards and the Standards of Ethical Conduct for Employees of the Executive Branch.

**Allegation #2: SEC OIG management engaged in misconduct related to the handling of investigative complaints, reporting conflicts of interest, addressing personnel issues, and improperly influencing witness statements.**

**Issue #2a: DIG Noelle Maloney and Counsel to the IG Mary Beth Sullivan failed to report their knowledge of Kotz' misconduct with regards to two alleged inappropriate relationships.**

**Issue #2a Findings:**

**Interview of Mary Beth Sullivan, Counsel to the IG**

Sullivan told investigators that she and Maloney engaged in idle conversation about people in the office, including Kotz. She and Maloney both speculated after the Madoff investigation about whether Kachroo and Kotz might be having an affair. This speculation originated because they thought Kachroo was an attractive woman and she began communicating regularly with Kotz in an apparent attempt to convince him to initiate an investigation of the Stanford Receivership. Sullivan said Maloney was the only person with whom she discussed this alleged relationship between Kachroo and Kotz (Exhibits 18, 30).

Sullivan also speculated with Maloney about a possible connection between Kotz and (b)(7)(C). She told Maloney about the personal, suggestive emails she saw (b)(7)(C) send to Kotz while working on Kotz' computer, including the email from (b)(7)(C) on September 28, 2008, which described Kotz as being a good dad. She also told Maloney about Kotz and (b)(7)(C) having coffee at Ebenezers Coffeehouse (Exhibit 30, lines 462-465, 489-542 and 930-944).

At times, Maloney made comments to her speculating about Kotz' relationship with a few other women, but nothing that made Sullivan believe anyone was involved in misconduct. All of these conversations were not based on facts, but were simply based on opinion and office gossip. Maloney offered no support for any of her speculations (Exhibits 18).

### Interview of Noelle Maloney, Deputy IG

Maloney reviewed with investigators her April 23<sup>rd</sup> letter to the Integrity Committee and affirmed that all of her statements were true. Maloney stated she had no actual knowledge of an affair or sexual relationship between Kotz and Kachroo. Maloney stated she did not start the rumor of a sexual affair or intimate relationship between Kotz and Kachroo, but instead made jokes with Sullivan about the rumor involving Kotz and Kachroo (Exhibit 9, lines 1813-1850 and 3618-3687).

Maloney indicated that in 2008 or early 2009, she and Sullivan joked about the possibility of a relationship between Kotz and (b)(7)(C). Sullivan speculated to her that (b)(7)(C) and Kotz were "good friends." Maloney could not recall from whom she first heard talk of a relationship between them, but thought a male investigator at that time started the rumor. Maloney admitted that Sullivan also told her that (b)(7)(C) had emailed and called Kotz directly, but Sullivan did not show her any emails. Maloney said that she "would have done something about it [the relationships and/or affairs]" if she believed that they were true and if they had affected the integrity of the OIG (Exhibit 9, lines 3628-3746).

[AGENT NOTE: The Standards of Ethical Conduct states, "Where...circumstances would cause a reasonable person with knowledge of the relevant facts to question his impartiality in the matter, the employee should not participate in the matter unless he has informed the agency designee of the appearance problem and received authorization from the agency designee..." (Exhibit 44).]

**Summary of Findings:** The evidence above indicates Maloney and Sullivan failed to report their knowledge of Kotz' inappropriate relationship with (b)(7)(C) and suspicions regarding Kachroo. Their knowledge should have caused Maloney and Sullivan to elevate their concerns to SEC management or CIGIE, to ensure that Kotz did not have a conflict of interest with regards to the Restacking Project audit, the Stanford Receivership investigation, or the Madoff investigation.

**Allegation #2b:** DIG Noelle Maloney failed to take appropriate action to address Weber's work performance and conduct.

**Allegation #2b Findings:**

## Overview of AIGI David Weber's Supervisors at the SEC OIG

Based on a review of Human Resources records, investigators established that Weber arrived at the SEC OIG on January 4, 2012, and was directly supervised by Maloney for approximately 11 weeks. On March 23, 2012, Weber was reassigned to report to AIGA Jacqueline Wilson, who supervised him for approximately six weeks. On May 8, 2012, Weber was placed on administrative leave (Exhibits 4, 8, and 54).

### Interview of Noelle Maloney, Deputy IG

In an effort to provide an overview of how Weber was hired, Maloney explained that Kotz received a list of eligible candidates for the AIGI position from Human Resources. Maloney and Kotz conducted the initial interviews, followed by second interviews with Sullivan by herself. Maloney recalled that (b)(7)(C) in the winter of 2009. Maloney declined to say whether she selected him, implying that Kotz and Sullivan played more of a role (Exhibit 9, lines 128-238).

[AGENT NOTE: An email review identified an October 31, 2011, email from Maloney to Weber, which included a job announcement link and the following text: "Subject: FW: Supervisory General Attorney (Assistant IG for Investigations), David, In case you know anyone who might be interested. Thanks, Noelle." (Exhibit 55)]

Maloney indicated that, after he was hired, she had to address Weber's poor performance and conduct issues with him on several occasions between January 2012 and March 2012. In one instance, Weber was part of a multi-agency teleconference and made an inappropriate remark about the Department of Treasury OIG. After the teleconference, the Treasury IG contacted Maloney to complain about Weber's comments. In a separate incident, Weber made inappropriate comments about a witness' anatomy (breasts and buttocks) following the witness' deposition (Exhibit 9, lines 350-635).

Maloney stated she spent a great deal of time talking to Weber to correct his conduct and improve his performance. Maloney stated she did not take any formal or written corrective action against Weber. However, Maloney requested Roberta Raftovich, Assistant to the IG, to check with SEC Human Resources to determine if Weber was still in probationary status with the SEC (Exhibit 9, lines 636-665).

### Interview of David Kotz, former SEC IG

Kotz told investigators that Weber (b)(7)(C) created (b)(7)(C) but Maloney wanted to hire Weber. When

the position became vacant in 2011, Maloney told Kotz she wanted to hire Weber. Kotz met with Weber during the screening process. After meeting Weber, Kotz said that, although he would not have hired Weber, he deferred to Maloney, who was insistent on hiring Weber. Kotz' biggest concern with Weber was how he would interact with the SEC. Kotz sensed Weber would tell different stories to get the outcomes he wanted (Exhibit 45).

#### Interview of Roberta Raftovich, Assistant to the IG

Raftovich confirmed to investigators that Maloney asked her to contact HR regarding Weber's employment status. Raftovich subsequently contacted Travis Elliott, SEC Office Human Resources, to determine if Weber was in probationary status (Exhibit 56).

#### Interview of Travis Elliott, SEC Office of Human Resources Assistant Director

Elliott told investigators that in early March 2012, Raftovich contacted him, on behalf of Maloney, to inquire if Weber was in a probationary status. Elliott could not provide an immediate answer, since Weber's official personnel folder (OPF) had not yet been received from his previous government agency. In April 2012, Elliott received and reviewed Weber's OPF. On April 11, 2012, Elliott determined Weber was not in a trial period, given that his series and supervisory function have been the same for two years and he advised Raftovich of this fact (Exhibit 57).

Later in the day, after further consideration and discussions with Assistant Employee Relations Director Rebecca Pikofsky and Branch Chief Ryan Wedlund, Elliott changed his mind and determined Weber was a trial employee. He opined that Weber was a trial employee subject to a 2-year trial period for two reasons. First, Weber's duties in the SEC OIG were not the "same or similar" as those performed in his previous job. Second, when Weber first became a supervisor in November 2010, he had not yet completed the 2-year trial period in a supervisory position. Elliott said he reconsidered his initial decision upon reflection and further research into previous cases that addressed the issue. No one pressured or influenced his decision.

#### Forensic Email Analysis and Review

Investigators conducted a forensic review of all emails on the SEC email servers and government computers, in an attempt to identify email correspondence related to this issue. Below are excerpts from some of the emails that were identified during this review (Exhibit 58):

- On December 1, 2011, Raftovich emailed Weber: "You are scheduled to interview with H. David Kotz, Inspector General and Noelle Maloney, Deputy Inspector General at 10:00 a.m. on Monday, December 5, 2011..."
- On December 13, 2011, Raftovich emailed Weber, "Please let me know if you are interested in a second interview for the AIGI position...The interview would be with Mary Beth Sullivan, Counsel Inspector General."

[AGENT NOTE: The above two emails support Maloney's statements regarding who interviewed Weber for the AIGI position.]

- On March 1, 2012 at 11:14 a.m.:

Maloney to Raftovich, "Can you please find out if Weber is on a probationary period?"

Raftovich responds, "...I am pretty sure the answer is no because he came from another federal agency."

Maloney, "We [sic] was a temp employee there. Can you please find out?"

- On April 3, 2012, from Weber to Human Resources: "I have been unsuccessfully trying to get my initial appointment SF-50 corrected since I began at the SEC...I was marked as a 'conditional' tenure. I have been an excepted service federal perm employee since at least 1998."

[AGENT NOTE: The above two emails pertain to Weber's employment status.]

- On March 1, 2012, at 11:21 a.m.:

Maloney to Weber with cc to Sullivan: "I have made a decision that going

(b)(7)(E)

out...Furthermore, confirming our conversation two days ago...please take the flak jacket and put it (b)(7)(C) so that it is available to all staff."

- On March 1, 2012, at 6:01 p.m.:

Maloney to Weber: "I am sending this email to document the fact

(b)(7)(C)



(b)(7)(C)

- On March 21, 2012 at 2:26 p.m.:  
Maloney to Weber, "David, Are you coming in today? You already missed the testimony of the Deputy Chief of Staff. Do you intend to come in today?"
- On March 22, 2012 at 7:31 p.m.:  
Weber to Wilson, "...still up with the commissioners. Noelle, meanwhile, apparently filed a complaint against me claiming she feels 'physically threatened' by me even though I've been on 10 since 9 a.m."  
Wilson responds (b)(7)(C)  
Weber asks if he can share Wilson's email with the Commissioners.
- On March 26, 2012, Maloney sent email to Sullivan: "...I told the Commission that I would send the complaint to the Integrity Committee, but so far I haven't seen it...All I can say to you is I'm sorry for hiring this guy."

#### Interview of Jacqueline Wilson, AIGA

Wilson explained to investigators that she and Weber were peers as AIG's in their respective disciplines (Investigations and Audits) until Weber's March 2012 complaint to the SEC Commissioners. After his complaint, she was instructed to manage Weber and the Office of Investigations staff, rather than the Office of Audits. During the time she managed Weber, she did not have to discipline him for his conduct or performance. Wilson only received one complaint regarding Weber and it was from Investigator (b)(7)(C) who claimed that he misrepresented himself during an interview. (b)(7)(C) indicated he lied to a witness during an interview to get them to admit to their own wrongdoing, an act (b)(7)(C) felt was unethical conduct for an attorney (Exhibit 35).

[AGENT NOTE: Deception is an acceptable interview and interrogation technique used by law enforcement officers. The courts permit law enforcement officers to engage in deception and law enforcement officers are trained to do so by their agencies.]



Wilson described Weber as a "nice guy." When asked if Weber's behavior was ever inappropriate, if he acted rowdy, or if he screamed at staff in the office, she responded in the negative. However, she pointed out that when he talked, sometimes his leg and hands would shake nervously.

During his mid-year review, Weber told her that his staff lacked individual training plans or any past investigative training. Weber determined that the investigators on staff needed training to continue doing their jobs and should at least be 1810 series (General Investigators).

Wilson indicated that Weber queried the staff for their interest in attending law enforcement training for investigators, but was met with resistance. She stated that most did not want to attend external investigator training.

[AGENT NOTE: Postal Service OIG investigators determined SEC OIG investigative personnel lacked formal criminal investigations training, which could impact their ability to effectively conduct investigations and protect the rights of witnesses and subjects.]

**Summary of Findings:** The evidence above substantiated that SEC OIG management took reasonable actions with regards to performance concerns involving Weber prior to his March 22, 2012, report to the SEC Commissioners. However, subsequent to that date, Maloney failed to report her stated concerns about Weber to management so that appropriate action could be taken.

**Issue #2c:** SEC and SEC OIG management encouraged and instructed employees to file complaints regarding Weber's conduct in the workplace.

**Issue #2c Findings:**

**Interviews of David Weber, AIGI**

Weber told investigators that he complained to Wilson about Maloney visiting his investigators' offices and meeting with them for extended periods of time behind closed doors. Additionally, he sent a complaint letter to HR dated March 28, 2012, outlining his concerns that Maloney was meeting with all OIG employees to gather negative facts about him, make negative statements about his motivations, and comment negatively on his supposed work performance and ethics. His memo also indicated that Maloney asked employees to sign statements against him (Exhibit 59, lines 1282-1399 and 1543-1566).

### Interview of Charles Tobin, President, AT-RISK International

Tobin explained to investigators that on May 4, 2012, SEC Security Director Bill Fagan met with him and told him SEC OIG employees (b)(7)(C) Maloney, and (b)(7)(C) had filed complaints with him about Weber (Exhibit 60). Fagan asked Tobin to review the statements and interview the SEC OIG employees. After the statement review and interviews, Tobin completed a draft report of his findings wherein he recommended Weber be placed on administrative leave pending the conclusion of a more thorough investigation. Tobin provided the draft report to Fagan and SEC Director of FOIA/Records Management/Security Barry Walters. Tobin explained that the draft report provided to Walters was the only report recommending Weber be placed on administrative leave. Tobin based this recommendation on information from the initial interviews and his belief that employees would be less likely to hold back information if they knew Weber was not around. Tobin stated he did not rely solely on the information provided to him by the SEC and that the interviews he conducted were conducted independently. Tobin noted that no one at SEC had anything to do with his recommendation. Tobin provided the final report to Walters, dated May 22, 2012, followed by a supplemental report on June 7, 2012.

### AT-RISK Risk Assessment Report on David Weber (May 22, 2012 and June 7, 2012)

AT-RISK conducted an investigation into allegations that Weber presented a risk to his coworkers. The findings suggested a "significant managerial problem" existed within the OIG's office likely to result in ongoing and possibly increasing conflict among the employees and management and that the SEC should take efforts to appropriately manage Weber and the OIG's office. AT-RISK determined that Weber presented a "low" risk of violence in the workplace.

During the AT-RISK investigation, interviews of 19 employees were completed between May 4, 2012, and May 21, 2012, at the SEC OIG office. Weber was not interviewed because he was on vacation and four other SEC OIG employees elected not to comment at that time. Only one of the interviewed employees suggested he was in fear of Weber from physical harm, but many of them stated they observed angry and intimidating behavior by Weber. The one person who was in fear of Weber (later identified (b)(7)(C)) outlined an incident where Weber (b)(7)(C) (b)(7)(C). Another person said he or she was "terrified" of Weber, but this was not a personal safety fear, rather a fear towards what Weber would do to his or her career for speaking out against him.

The AT-RISK report referenced a Department of the Treasury (Treasury) OIG report regarding an incident involving Weber while he was an employee of the Office of the Comptroller of the Currency (OCC). (b)(7)(C)

(b)(7)(C)

#### Interview of Jim Burns, SEC Deputy Chief of Staff

Burns told investigators he recalled hearing about Weber for the first time when Weber either attempted to obtain, or indicated he wanted to obtain, a firearm from the SEC Security Office. Burns thought the comments he heard regarding Weber were broad and general, and involved employees' concerns for their personal safety. Burns could not recall who specifically shared these concerns with him, but believed he learned the information from Walters or Fagan (Exhibit 61).

[AGENT NOTE: In his interview with investigators, Weber denied ever requesting a firearm. He explained that after his initial assessment of his staff, he realized that none of them had any law enforcement experience and they could not effectively do their job. He asked them if they would be willing to go to one of the basic Investigative Training Programs. He stated to investigators that this training could have resulted in them receiving firearms. However, Weber stated he never asked for one.]

Burns was not sure whether the SEC Security Office or a third party took statements from employees who were complaining about Weber's conduct. Burns believed that when the initial complaints came in, the statements were taken by SEC Security personnel. A third-party then came in to conduct a full investigation. Burns said he could not recall whether he told Fagan and/or Walters not to be involved in the investigation of the complaints regarding Weber's conduct or if they recused themselves proactively.

### Interview of former senior SEC OIG official

The official was aware of one investigation the SEC OIG conducted related to Fagan's (b)(7)(C). The official believed Fagan was aware of the OIG's investigation, but he (Fagan) did not know the results of the investigation (Exhibit 31).

[AGENT NOTE: The investigation revealed that Fagan was involved in various aspects of the review of Weber's behavior and conduct. Information developed during the investigation revealed Fagan likely knew he was under investigation by Weber and the SEC OIG. Fagan should have recused himself from any involvement in the investigation of, or subsequent action against, Weber. Any involvement by Fagan in the investigation of Weber could be a conflict of interest and a violation of the Standards of Ethical Conduct for Employees of the Executive Branch. Investigators did not interview Fagan to clarify this (b)(7)(C) ]

### Interview of (b)(7)(C), SEC OIG (b)(7)(C)

(b)(7)(C) told investigators (b)(7)(C) not encouraged by anyone to make a complaint or provide a statement regarding Weber. The morning (b)(7)(C) complaint, (b)(7)(C) called Maloney and said (b)(7)(C) was afraid to come to the office because of Weber. Maloney did not encourage (b)(7)(C) to file a complaint, but said if (b)(7)(C) was concerned for (b)(7)(C) safety, (b)(7)(C) should contact SEC security (Exhibit 62).

### Interview of (b)(7)(C), (b)(7)(C)

(b)(7)(C) shared with investigators that on May 2, 2012, Weber reprimanded (b)(7)(C). (b)(7)(C) told (b)(7)(C) that Weber (b)(7)(C). (b)(7)(C) [see (b)(7)(C) interview on pages 50 – 51 for more details]. (b)(7)(C) recounted this information to (b)(7)(C) and Maloney near the front portion of the SEC OIG suite. Upon hearing (b)(7)(C) statement, Maloney said Weber was starting to scare (b)(7)(C). (b)(7)(C) also said Weber was scaring him. The three went then to Security and filed their complaints. According to (b)(7)(C), Maloney and (b)(7)(C) did most of the talking (b)(7)(C).

### Interview of Noelle Maloney, Deputy IG

Maloney denied influencing or directing any employees to file complaints against Weber. She admitted to meeting with employees in the office, but claimed they were simply social discussions and not intended to influence others to file statements (Exhibit 9, lines 3332-3335).

### Interview of Jacqueline Wilson, AIGA

Wilson told investigators that Weber complained to her about Maloney meeting with his investigators behind closed doors after his report to the Commissioners. She contacted OGC attorney Lindy Hardy about these concerns and told Hardy that Maloney should not be spending office time chatting with any employees for extended periods of time about personal things. Wilson was concerned that the employees should be working instead. Hardy told her that she had known Maloney for years and did not believe Maloney would do something like what Wilson was describing, but agreed to call her about it. Hardy called Wilson back sometime later and told her that Maloney admitted to her that she was in fact meeting with all of Weber's employees behind closed doors. Hardy told her that Maloney apologized and said she would stop. However, Wilson noticed that Maloney continued to do it (Exhibit 35).

Wilson was asked if any staff complained about pressure from Maloney or Weber to make statements on their behalf. The only person who expressed any sense of pressure was (b)(7)(C), who relayed to Weber that Maloney told her "we had to choose sides" between Maloney and Weber. Wilson witnessed Maloney meeting with (b)(7)(C) after Maloney was removed from the investigative management chain of command.

### Interview of (b)(7)(C)

(b)(7)(C) told investigators that no one solicited or approached (b)(7)(C) to provide a statement to the SEC Office of Security Services. (b)(7)(C) noted that on April 2, 2012, (b)(7)(C)

(b)(7)(C) (Exhibit 63).

With regards to (b)(7)(C) statement to the SEC Security staff about Weber, (b)(7)(C) did not show (b)(7)(C) statement to anyone other than William Fagan, Chief of Security. (b)(7)(C) indicated that no one shaped the content of (b)(7)(C) statement.

### Interview of (b)(7)(C), SEC OIG (b)(7)(C)

(b)(7)(C) explained that she was contacted via email by Barry Walters, Director of FOIA/Records Management/Security, and offered the opportunity to speak to AT-RISK

investigators. (b)(7)(C) did not provide a written statement and was not impressed by the process used by AT-RISK (Exhibit 49).

Interview of (b)(7)(C) SEC OIG (b)(7)(C)

(b)(7)(C) stated no one influenced her to write a statement for the SEC security staff. (b)(7)(C) said she was never encouraged or pressured by Maloney or any other SEC OIG employee to file any type of complaint against Weber, nor did she hear that any other employee was encouraged to submit a complaint against Weber (Exhibit 38).

Interview of (b)(7)(C) SEC OIG (b)(7)(C)

(b)(7)(C) explained that she did not file any complaint against Weber. She was contacted via email by Walters and offered the opportunity to speak to AT-RISK investigators. She agreed to be interviewed by AT-RISK, but the interview was conducted after Weber was placed on administrative leave. (b)(7)(C) stated that no one, including Maloney, approached her to provide a statement (b)(7)(C).

Interview of (b)(7)(C) SEC OIG (b)(7)(C)

(b)(7)(C) indicated that Maloney met with him in his office and explained that she would no longer be managing the investigative staff because of Weber's complaint to the SEC Commissioners. (b)(7)(C) could not recall the allegations Maloney told him that Weber made, but as she described them to him, he felt they may be untrue. Since he was not happy with management's decision to remove Maloney from investigative oversight, (b)(7)(C) wanted the SEC management to know they had received a complaint from a "liar," since he believed Weber was making false accusations about Maloney to the Commissioners (Exhibit 64).

After Maloney told him about Weber's complaint, (b)(7)(C) called Deputy Chief of Staff Jim Burns and requested a meeting to discuss management's earlier decision to reorganize the Office of Investigations to report to Wilson. He visited other SEC OIG staff and solicited their support to discuss Weber and show support for Maloney. After recruiting (b)(7)(C) they both met other OIG employees in their offices, advising them of their plans to speak to the Chairman.

Following their recruiting efforts, (b)(7)(C), Wilson, (b)(7)(C) and (b)(7)(C) went to Burns' office. At the start of the meeting, Burns asked Wilson to leave. The employees then explained that they were concerned with Maloney's new role and Weber's alleged indiscretions, to include lying. (b)(7)(C) told Burns he wanted to ensure that "he (Weber) did not run wild with his crazy theories."



(b)(7)(C) stated he was never asked, solicited, or encouraged to report concerns about Weber. He indicated he did so voluntarily. (b)(7)(C) also stated he never expressed any concerns about Weber's conduct to Maloney prior to Weber's complaint to the Commissioners.

Interview of (b)(7)(C) SEC OIG (b)(7)(C)

(b)(7)(C) indicated that no one solicited (b)(7)(C) to provide a statement against Weber. (b)(7)(C) contacted Fagan and provided a statement on May 7, 2012, after hearing other SEC OIG employees had filed complaints. (b)(7)(C) said no one influenced the information contained in (b)(7)(C) statement. (b)(7)(C) thinking about filing a complaint against Weber, but did not feel comfortable doing so until (b)(7)(C) heard that (b)(7)(C) submitted his statement (Exhibit 36).

(b)(7)(C) denied meeting with Maloney about Weber the week before he was placed on administrative leave. (b)(7)(C) did not hear any other employees discussing upcoming management changes within the SEC OIG.

(b)(7)(C) provided (b)(7)(C) statement to the security office the day before Weber was placed on leave. (b)(7)(C) may have called (b)(7)(C) and (b)(7)(C) on May 8, 2012, the day Weber was placed on administrative leave. (b)(7)(C) told investigators that (b)(7)(C) fears for (b)(7)(C) safety (when asked to discuss the basis for (b)(7)(C) safety concerns, (b)(7)(C) clarified that meant (b)(7)(C) livelihood and the reputation of the OIG) around Weber and has a general distrust of him.

(b)(7)(C) said after the allegations were made against Maloney, which (b)(7)(C) felt Weber fabricated, Deputy Chief of Staff Jim Burns called an "all hands" meeting on March 23, 2012, with everyone in Investigations. (b)(7)(C) thought the "all hands" meeting was held the same day Weber threatened to change (b)(7)(C) stated Burns informed the attendees that there would be a change in the SEC OIG reporting structure, and all Office of Investigations employees would now be reporting to Wilson instead of Maloney. (b)(7)(C) said the majority of the meeting focused on the reporting structure, not why the change was taking place.

(b)(7)(C) said during the "all hands" meeting, Burns instructed the attendees to contact Wilson, or Human Resources, if they had any further questions, or wanted to speak to someone. Approximately a half hour after the "all hands" meeting, at Burns' direction, Wilson went to everyone's office and invited them to attend a meeting she was setting up with Burns for 4:00 p.m. on March 23, 2012. (b)(7)(C) said Wilson told her that all employees were welcome to attend the meeting, but attendance was not required.



(b)(7)(C) felt Burns only held the second meeting to humor the OIG staff and had no interest in hearing about the "true Weber."

(b)(7)(C) said some of the other attendees at the meeting in Burns' office were (b)(7)(C) and Wilson. Also present was Katherine Mohan, SEC Assistant Director of Human Resources. (b)(7)(C) was disappointed other employees did not attend the meeting, but believed it may have been due to the meeting being held late in the day or the fact that some people were on leave. (b)(7)(C) said Maloney was not present at the meeting. (b)(7)(C) does not recall Wilson being asked to step out of the meeting at any time. (b)(7)(C) did not recall (b)(7)(C) co-workers speaking out to Burns about Weber during the meeting.

#### Interview of Jim Burns, SEC Deputy Chief of Staff

Burns explained to investigators that the office of the Chief of Staff directly supervised SEC operations and reported to the Board of Commissioners. After Weber reported his concerns to the Commissioners on March 22, 2012, and a decision was made to have the SEC OIG's Office of Investigations report to Wilson instead of Maloney, he scheduled a meeting to inform the staff of this change. During that meeting, he explained the new reporting structure, but did not discuss the complaints made by Weber. He recalled some employees appeared upset during the meeting and he decided to schedule a second meeting to address those concerns (Exhibit 61).

Burns could not remember exactly how many or which OIG employees were at the second meeting, but he believed they included Wilson, (b)(7)(C) (b)(7)(C), and (b)(7)(C). At one point, Wilson was asked to leave so the group could speak more freely to him about their concerns regarding Weber. Burns described the topics of concern as a "smorgasbord of stuff," meaning the employees had a number of broad complaints about Weber. The employees said Weber made them uncomfortable, was unethical, and would run "roughshod" over Wilson under the new re-organization. Burns told the SEC OIG employees that Wilson was now Weber's supervisor and they should bring any concerns regarding their direct supervisor (Weber) to her (Wilson). Additionally, Burns told them they could bring concerns to Human Resources as well.

#### Interview of (b)(7)(C), SEC OIG (b)(7)(C)

(b)(7)(C) had no knowledge of Maloney encouraging anyone to make complaints about Weber. He also indicated that no one approached him to make a complaint against Weber (Exhibit 52).

#### Forensic Email Analysis and Review

Investigators conducted a forensic review of all emails on the SEC email servers and SEC government computers issued to Kotz, Maloney, and Weber, in an attempt to identify email correspondence related to this issue. Investigators did not find any emails from management directing employees to file complaints regarding Weber's conduct in the workplace.

**Summary of Findings:** The evidence indicates there was not an attempt on SEC OIG management's part to influence employees to falsify or exaggerate their testimony or statements regarding Weber. Instead, there is evidence that (b)(7)(C) and (b)(7)(C) were responsible for recruiting co-workers to join them in filing complaints against Weber.

**Allegation #3: Weber engaged in misconduct, either by creating a hostile work environment or by making false statements.**

**Issue #3a:** AIGI David Weber behaved in a threatening manner towards his coworkers and created a hostile work environment.

**Issue #3a Findings:**

**Interview of Noelle Maloney, Deputy IG**

Maloney indicated that prior to Weber's report to the Commissioners, she and Weber met on a daily basis, oftentimes just the two of them, and she did not have any concerns about him being threatening or about her safety. However, she described a number of instances involving Weber that caused her to be concerned (Exhibit 9, lines 1601-1608).

Maloney described Weber's possession of a bulletproof vest and how he brought it to the office. She said she had no idea whether Weber purchased the vest or not. One day, Weber showed up with a vest that had "Police" written on the back. Maloney said Weber modeled the vest and the staff had mixed reactions, including some who she thought were offended. Maloney said she told Weber to take it off and put it away. After seeing this, Maloney checked with Director Barry Walters in the Office of Security and was told that they did not give Weber the vest. Maloney thought Weber purchased the vest on his own because the only OIG vest she was aware of was stored by Security. SEC OIG Investigator (b)(7)(C) had previously obtained a bulletproof vest through the Security Office to wear when he planned to accompany police during arrests, but that vest stayed with the Security office. Maloney said she did not know of a reason why anyone would need a vest in the office (Exhibit 9, lines 3048-3051).

With regards to Weber's request to carry a firearm, Maloney said Director Barry Walters called her sometime in the first half of February 2012 to tell her that Weber wanted to carry a gun or was requesting one. She subsequently talked to Weber about that call with Walters and he denied making that request. Maloney did not follow up with Security after speaking with Weber (Exhibit 9, lines 717-725).

[AGENT NOTE: In a February 10, 2012, email to Walters, Maloney said, "I have spoken with (b)(7)(C) and David [Weber] about the matter, and I am sure that there must have been some miscommunication on January 24, as neither one of them has requested nor wants a weapon" (Exhibit 65).]

Maloney did not know if Weber asked any employees if they wanted to carry a gun or attend training to carry a weapon. Maloney said it was disturbing to her that Weber might be requesting a weapon. She was also concerned that he was lobbying Wilson to obtain a weapon that he could carry in a concealed manner when he began reporting to her. Maloney said she thought there was no reason to carry a firearm, since they did not conduct criminal investigations. With regards to a statement Weber made that it would be easy to bring a weapon into the SEC building, Maloney thought he was just making an observation (Exhibit 9, lines 698-750, 2960-2964, and 3137-3152).

Maloney stated that, after Weber reported his concerns to the SEC Commission on March 22, 2012, and was reassigned to Wilson on March 23, 2012, she felt her personal safety was jeopardized by Weber's conduct. Maloney said Weber would follow her around within the OIG suite and whenever she left the suite. Also, whenever she entered an office or meeting with another employee, Weber would stand in an "aggressive" stance outside the door. Maloney would hide in bathrooms or alter her route to avoid Weber. Maloney said that if Weber was walking in the hall towards her, he would adjust his pattern to try to block Maloney's path. In one case, Weber brushed against Maloney while passing by. Maloney was fearful Weber would come to her residence, so she notified the local police department of her safety concerns and asked for extra patrols in her neighborhood (Exhibit 9, lines 2072-2076, 2527-2532, and 2651-2724).

[AGENT NOTE: Wilson told investigators that while she was supervising Weber, Maloney never approached her with any complaints regarding Weber's behavior and never indicated she felt threatened by Weber. Maloney also never told Wilson she had requested extra patrols in her neighborhood.]

Maloney confirmed that she did not report any concerns regarding Weber to SEC or SEC OIG management prior to his report to the SEC Commissioners or the CIGIE IC.

She also did not report the concerns outlined above to anyone in management (Exhibit 9, lines 3346-3351).

#### Coordination with Hyattsville, Maryland Police Department

Investigators contacted the Hyattsville Police Department and spoke with Officer (b)(7)(C) regarding Maloney's claim that she requested additional patrols due to her concerns about Weber. (b)(7)(C) indicated the police department records did not reflect Maloney requested additional police patrols for her neighborhood. (b)(7)(C) who is assigned as the neighborhood liaison officer for Maloney's neighborhood, said he was copied on a May 8, 2012, email from Maloney to her neighbors. In the email, Maloney said she had to "deal with a potentially violent employee in my workplace, and there is a chance that he may seek me out at home." Maloney also stated, "He has been deemed a threat and placed on administrative leave as of today." (b)(7)(C) was not contacted directly by Maloney, nor did he respond to Maloney's email (Exhibit 66).

Interview of (b)(7)(C), SEC OIG (b)(7)(C)

(b)(7)(C)

(b)(7)(C) (Exhibit 62).

(b)(7)(C)

(b)(7)(C) felt threatened (b)(7)(C)

(b)(7)(C)

(b)(7)(C) Weber did not physically touch

(b)(7)(C) and (b)(7)(C) (b)(7)(C)

Interview of (b)(7)(C)

(b)(7)(C) shared with investigators that when Weber was first hired, he was quiet. After he settled in, he became "fidgety," "hyper," and "erratic." However, (b)(7)(C) admitted that Weber never physically threatened her or any other SEC OIG employee to (b)(7)(C) knowledge (b)(7)(C)

(b)(7)(C)

recounted this information to (b)(7)(C) and Maloney near the front portion of the SEC OIG suite. Upon hearing (b)(7)(C) statement, Maloney said Weber was starting to scare her. (b)(7)(C) also said Weber was scaring him. The three then went to the Security office and filed their complaints with Fagan. (b)(7)(C) Maloney and (b)(7)(C) did most of the talking.

During the discussion with Fagan, Maloney told him that as the Deputy IG, she could not tell Weber what to do. She said that he was trying to pursue firearms and 1811 series status for Office of Investigations staff. Maloney explained that she told Weber "no" to both, but now Weber was working for Wilson and the discussion had begun again. (b)(7)(C) added that, "Weber wanted a gun and Maloney [did] not like guns."

Interview of (b)(7)(C) SEC OIG (b)(7)(C)

(b)(7)(C) was asked to clarify the timeline of events leading up to two meetings held by Deputy Chief of Staff Jim Burns with SEC OIG staff on March 23, 2012. (b)(7)(C) stated the first meeting was an OIG "all hands" meeting scheduled for 2:30 in conference room 2944. All SEC OIG staff, with the exception of Weber and Maloney, and an unidentified representative from Human Resources, were present at this meeting. Burns explained to the group that the purpose of the meeting was to apprise the staff of changes to the reporting structure where the investigative staff would now be reporting to Wilson instead of Maloney. Burns directed the group to report any complaints or concerns regarding Weber to their supervisor and to Human Resources. (b)(7)(C) did not recall any further details from this meeting (Exhibit 64).

(b)(7)(C) stated a second meeting was held later that afternoon at approximately 4:30 p.m. in a conference room on the 10<sup>th</sup> floor. Wilson, Burns, (b)(7)(C) (b)(7)(C) (b)(7)(C) and (b)(7)(C) were present. (b)(7)(C) noted he had left a voicemail for Burns at approximately 10:00 a.m. in which he indicated several employees had expressed concerns regarding Weber. Burns left him a voicemail reply later that day, but they never actually spoke. (b)(7)(C) did not know if this 4:30 p.m. meeting was a direct result of his contacting Burns or because of some other factors. He believed he was notified of this meeting by Wilson, but was not sure.

During this second meeting with Burns, (b)(7)(C) "conveyed" a couple of concerns he personally had concerning Weber. His specific concern was he wanted to know who would keep Weber "in check" now that Maloney was not supervising him. He also told Burns that a few employees believed Weber had made "false statements" and was "suggesting aggressive avenues of investigation that were rejected by Noelle." At some



point, Burns asked Wilson to leave the meeting because (b)(7)(C) expressed concern that Wilson did not have an investigative background and might not be able to keep Weber in check. (b)(7)(C) stated he could not recall what (b)(7)(C) (b)(7)(C) or (b)(7)(C) said in the meeting. He said attendees expressed "general concerns" regarding Weber, but he "could no longer recall" any specifics. (b)(7)(C) stated Maloney did not participate in this meeting and, to his knowledge, did not coordinate it.

Interview of (b)(7)(C)

(b)(7)(C) could not recall the exact day Weber received his bulletproof vest. However, she did remember that when he received it, he put it on and walked the hallway of the SEC OIG office showing everyone. He even asked several employees to take pictures of him with it on, so he could send it to his friends. (b)(7)(C) was not one of the employees who took a photo of Weber. (b)(7)(C) said everyone who was in the office that day saw Weber with the vest, because he was parading around with it on. However, (b)(7)(C) said she did not feel Weber was acting in a threatening or intimidating manner. (b)(7)(C) stated it appeared to her that Weber was boasting or bragging that he owned a bulletproof vest. (b)(7)(C) stated she believed Weber kept the vest in a closet in his office. (b)(7)(C) said this was the only time she saw Weber actually wearing the vest. However, (b)(7)(C) recalls Weber bringing a friend (a non-SEC OIG employee) into his office to show him the vest (Exhibit 38).

(b)(7)(C) said while working an investigation with (b)(7)(C) (b)(7)(C) accidentally sent an email containing sensitive case information to the subject of the investigation. (b)(7)(C) said she told (b)(7)(C) that she should tell Weber about it, but (b)(7)(C) refused because of the potential repercussions. (b)(7)(C) felt obligated to tell Weber due to the possibility of a lawsuit from the subject. (b)(7)(C) told Weber about the incident and he immediately reprimanded (b)(7)(C) (b)(7)(C) said later that evening while she was at home, Weber called her and asked her about any other communications she had with (b)(7)(C) that may have been released. (b)(7)(C) said while working the investigation with (b)(7)(C) they did exchange work information via texting on their personal cell phones.

The following morning, Weber or Wilson sent an email to the entire staff asking if anyone had a personal email account. (b)(7)(C) stated Weber was concerned that employees were using personal email accounts to communicate sensitive SEC information. (b)(7)(C) said she did not think Weber was targeting any particular person with his request.

(b)(7)(C) said after the allegations were made against Maloney, Burns called an "all hands" meeting on March 23, 2012, with everyone in Investigations. Burns, (b)(7)(C) (b)(7)(C), who worked in the Chairman's office, also attended the

meeting. During the meeting, Burns informed the attendees about a change in the SEC OIG reporting structure where Investigations employees would report to Wilson instead of Maloney. (b)(7)(C) said the majority of the meeting focused on the reporting structure, not why the change was taking place.

(b)(7)(C) said that before the "all hands" meeting ended, Burns announced to the attendees that if they had any further questions, or wanted to talk further to him, they were welcome to come to his office. A half hour or hour after the "all hands" meeting ended, Wilson came around to everyone's office and invited them to attend a meeting she was setting up with Burns for 4:00 p.m. on the same day. Wilson told her that all employees were welcome to attend the meeting and that the basis of the upcoming meeting was to obtain additional information regarding the upcoming reporting structure. (b)(7)(C) also believed some employees wanted to use the meeting as an opportunity to discuss complaints about Weber's conduct.

(b)(7)(C) said some of the attendees at this second meeting were (b)(7)(C) (b)(7)(C) (b)(7)(C) and Wilson. (b)(7)(C) said (b)(7)(C) wanted to attend, but was told since she was (b)(7)(C) she could not attend. (b)(7)(C) said (b)(7)(C) also wanted to attend, but did not for an unknown reason.

During the second meeting, (b)(7)(C) told Burns she did not think Weber was the right fit to manage investigations. She said that she had a general distrust for Weber, because he embellished or added details during his investigations. As an example, (b)(7)(C) described a work assignment she received from Weber, which he had worked on at his previous agency. Weber told her about possible organized crime involvement and stressed to her the need to not use her personal phone so the mafia could not trace her. (b)(7)(C) questioned her office's involvement in this investigation.

(b)(7)(C) also asked what avenues she could explore if Weber became irate like he had in the past. (b)(7)(C) said she was told to report any inappropriate behavior by Weber to the Human Resources office. (b)(7)(C) said (b)(7)(C) told Burns that Weber wanted him to investigate an allegation that would have violated the Fourth Amendment, but she could not recall any other specifics of the allegation. (b)(7)(C) stated that (b)(7)(C) told Burns she was afraid of Weber.

Towards the end of the meeting, Burns asked Wilson to leave the room so he could talk more freely to the attendees without Wilson's presence. (b)(7)(C) said she did not recall anyone talking to Burns while Wilson was out of the room. (b)(7)(C) stated that Burns told the attendees that his office would look into the allegations regarding Weber. (b)(7)(C) said Wilson returned to the meeting prior to it ending, and everyone left at the same time.



The day after these meetings, (b)(7)(C) stated she, Raftovich, and Maloney were in Raftovich's office discussing the new office reporting structure announced by Burns. (b)(7)(C) said the office was full of emotions due to the changes made to the reporting structure. (b)(7)(C) said she was upset and started to cry because she would no longer be reporting to Maloney, but would instead be reporting to Weber. Maloney was crying because she was upset that Weber filed the allegations against her. (b)(7)(C) said no one was crying because of any threat, action, or confrontation brought on by Weber.

Interview of (b)(7)(C) (b)(7)(C) SEC OIG (b)(7)(C)

(b)(7)(C) stated (b)(7)(C) feared for (b)(7)(C) safety based on Weber's attempts to get a firearm. (b)(7)(C) did not think Weber being placed on administrative leave was retaliation for Weber's complaint to the CIGIE IC. (b)(7)(C) believed it was instead due to Weber creating a hostile working environment (Exhibit 36).

(b)(7)(C) showed Wilson and Mohan a memo she drafted when Weber threatened to change (b)(7)(C) work schedule from (b)(7)(C). (b)(7)(C) wanted to make both of them aware of his threat, but did not feel comfortable giving either of them a copy, due to fear of Weber seeing the memo.

[AGENT NOTE: When (b)(7)(C) was interviewed, no copier was available to copy (b)(7)(C) memo to provide to investigators. However, (b)(7)(C) allowed investigators to review the memo and they confirmed it contained the same set of facts (b)(7)(C) provided in (b)(7)(C) written statement to the SEC security office on May 7, 2012.]

Interview of Jacqueline Wilson, AIGA

Wilson told investigators that she accepted an appointment to meet with Tobin about allegations that Weber was a threat in the office. Tobin met with her in Fagan's conference room, with the door open and she speculated that Fagan could hear her discussion with Tobin. She commented that during the meeting, Tobin asked no pointed questions and took very few notes. During the meeting, Wilson did not express any concerns to Tobin about Weber being a threat in the office. After returning to her office at the end of her meeting with Tobin, she wanted to share some more information with Tobin. Wilson called Fagan and asked him if she could return to the security office to follow up with Tobin. When Wilson got to the security office, Tobin and Fagan were in Fagan's office. Tobin said he was debriefing Fagan, but did not provide details to Wilson about his briefing. Wilson did not hear them discussing her interview (Exhibit 35).

Wilson described an incident involving (b)(7)(C) where she (b)(7)(C) sent an internal email commenting on the honesty of a witness that they were scheduled to interview. However, (b)(7)(C) accidentally copied the witness who she was criticizing on the email. When Weber found out about (b)(7)(C) error, he became upset and wanted (b)(7)(C) to be fired because he learned it had not been her first mistake. Wilson ensured the OIG notified (b)(7)(C) employer about the incident.

Wilson was also very vocal to investigators about her opinion that (b)(7)(C) was insubordinate to Weber on a number of occasions.

Interview of (b)(7)(C)

(b)(7)(C) believed the atmosphere in the SEC OIG office became more stressful and she became more fearful of losing her job after Weber filed a complaint with the SEC Commissioners. (b)(7)(C) noted that on April 2, 2012, Weber came to her office to discuss an investigative matter. During this discussion, he told her of the complaint he filed with the SEC Commissioners. (b)(7)(C) told Weber there were some rumors about his complaint floating around which contributed to low morale in the office. (b)(7)(C) believed telling Weber that was a mistake, as Weber began to "grill" her, asking her to identify individuals in the SEC OIG office who were conspiring against him. (b)(7)(C) said she was very uncomfortable and fearful because of how Weber was acting. However, she was also in fear of losing her job (b)(7)(C) (Exhibit 63).

Interview of (b)(7)(C) (b)(7)(C) SEC OIG (b)(7)(C)

(b)(7)(C) told investigators that Weber asked him to investigate Kotz' alleged misconduct. (b)(7)(C) declined to conduct that investigation, telling Weber he should report it elsewhere. In a subsequent meeting with an FBI agent assigned to the SEC (Supervisory Special Agent Bryan Smith), Weber asked Smith to investigate Kotz' alleged misconduct. (b)(7)(C) left the meeting and did not know if the FBI was further involved (Exhibit 52).

Interview of (b)(7)(C) SEC OIG (b)(7)(C)

(b)(7)(C) indicated that (b)(7)(C) acted very insubordinate to Weber on various occasions during group meetings. As an example, (b)(7)(C) explained she was present during staff meetings where (b)(7)(C) was visibly and verbally insubordinate with Weber. During the incident, (b)(7)(C) refused to follow Weber's instructions regarding (b)(7)(C) submissions, telling Weber, "I am not doing that, you should be doing that" (Exhibit 49).

## Forensic Email Analysis and Review

Investigators conducted a forensic review of all emails on the SEC email servers and the government computers issued to Kotz, Maloney, and Weber, in an attempt to identify email correspondence related to this issue. Below are excerpts from some of the emails that were identified during this review (Exhibit 67):

- On March 22, 2012, from Maloney to Burns at 5:27 p.m.: "...I am certainly feeling attacked at this point and am wondering what could be going on. You already are aware we have had issues with David Weber, so this is a concern."
- On April 2, 2012, Maloney sent an email to herself: "Just had conversation with (b)(7)(C); she informed me that David Weber has been trying to talk to the staff and "plead his case...attempt to gain sympathy and she does not believe that he means what he says, because he 'lies' and you 'can't trust a thing that comes out of his mouth'."

## Interview of David Weber, AIGI

Weber denied creating a hostile work environment or threatening employees.

With regards to his discipline of (b)(7)(C) Weber explained that that was the culmination of his efforts to address (b)(7)(C) work in (b)(7)(C) and his excessive use of leave. When Weber arrived at the SEC OIG, he instructed (b)(7)(C) to do his (b)(7)(C) work, instead of relying on Sullivan doing it. Weber also expressed concerns to (b)(7)(C) regarding time and attendance issues, and directed him to use annual leave when staying home to care for (b)(7)(C). (b)(7)(C) became publicly insubordinate and stated on a number of occasions that he was not doing (b)(7)(C) work. Weber brought him into the office to verbally counsel him and (b)(7)(C) eventually stormed out. Wilson went to (b)(7)(C) to tell him to apologize and he told her he would not do it. Weber then worked with HR and issued (b)(7)(C) formal discipline the same day (Exhibit 59, lines 861-944, 1044-1063, and 1643-1669).

With regards to the bulletproof vest, Weber explained that the vest was ordered by SEC OIG Investigator (b)(7)(C) (b)(7)(C) and was normally stored by the Security Office. Security delivered it to the office because (b)(7)(C) was going out on a raid. Since (b)(7)(C) was out when the vest arrived, Weber received it. Weber and Maloney were together when the vest arrived and Maloney told him to put it on and model it. He did and walked around the OIG office. No one was upset and this was the only time he wore it. He hung it up in his closet and the next time he checked on it, it was covered in yellow smiley-

face stickers, which he believed were placed on it by Maloney and (b)(7)(C) (Exhibit 59, lines 487-525, 586-593, and 692-835).

With regards to carrying a firearm in the office, Weber denied ever requesting a firearm through Security. He explained that after his initial assessment of his staff, he realized that none of them had any law enforcement experience and they could not effectively do their job. He asked them if they would be willing to go to an investigative training program. He stated to investigators that this training could have resulted in them receiving firearms. However, Weber stated he never asked for one (Exhibit 25, lines 1379-1422, 1532-1548, and 1617-1625 & Exhibit 59, lines 526-578).

**Summary of Findings:** This investigation examined the AT-RISK report and statements made by various employees. Most of the complaints in the AT-RISK report were based on hearsay and were without substance. The evidence provided during employee interviews with Postal Service OIG investigators did not substantiate allegations that Weber created a hostile work environment or displayed threatening behavior within the workplace. However, two specific complaints regarding Weber were closely examined by investigators. The first (b)(7)(C) was not physically afraid of Weber, but was fearful of losing (b)(7)(C) job if (b)(7)(C) did not accomplish the tasks he assigned (b)(7)(C). The second complaint involved an employee who was in a (b)(7)(C) (b)(7)(C). Both of these specific concerns regarding Weber's conduct were management issues, not security-related concerns.

**Allegation #3b:** AIGI David Weber made false statements to the SEC, the CIGIE Integrity Committee, and others, and engaged in unprofessional conduct during the course of investigations.

**Analysis of AIGI David Weber's reporting of misconduct by former IG H. David Kotz and Deputy IG Noelle Maloney**

In his March 23, 2012, memorandum to the CIGIE IC, Weber expressed concerns about the investigative report titled *SEC OIG-509, Investigation of Failure of the SEC to Uncover Bernard Madoff's Ponzi Scheme* (Madoff Investigation) as well as the pending SEC OIG investigation titled *SEC OIG-565, the SEC's Recommendation of and Oversight Over the Court-Appointed Receiver in SEC v. Stanford* (Stanford Receivership Investigation). The memo indicated that both investigations might have been affected by relationships between Kotz and key individuals in each investigation, one of whom was Dr. Gaytri Kachroo (Exhibit 22).

In his memorandum, Weber explained that Maloney told him former SEC Chairman Harvey Pitt knew about the affair Kotz had with Kachroo because Pitt's associate, Teresa Goody from Kalorama Partners, LLC, had made a Freedom of Information Act (FOIA) request for Kotz' emails to Kachroo (Exhibit 22).

Weber told investigators that in his March 21<sup>st</sup> meeting with Maloney, she confided that Kotz showed her "text messages" of a personal nature from Kachroo on his personal cell phone. Maloney told him the text messages were sent to Kotz the day that Kachroo was in the SEC OIG's office providing testimony on the Stanford Receivership matter (Exhibit 25, lines 2335-2338).

The following facts conflict with certain statements in Weber's memorandum:

- On August 7, 2012, SEC FOIA Attorney Mark Siford confirmed that the SEC had never received any FOIA requests from Kalorama or Pitt for records pertaining to Kachroo, which directly contradicts Weber's assertion in his March 23, 2012, memorandum. However, on December 15, 2011, Goody made a FOIA request (Request No. 12-02727-FOIA) for all correspondence, including email and any other correspondence available, between Kotz and (b)(7)(C). On March 30, 2012, the SEC responded to Goody and informed her that the SEC was withholding all of the emails in their entirety pursuant to the "invasion of personal privacy" exemption (Exhibit 68).
- An analysis of all emails between Kotz and Kachroo determined that their correspondence was friendly but professional. However, an analysis of correspondence between Kotz and (b)(7)(C) identified a number of messages containing personal and private information, suggesting a flirtatious and personal relationship.
- Investigators were unable to identify any evidence that Kotz sent text messages to, or received text messages from, Kachroo, (b)(7)(C) or any other individual.

[AGENT NOTE: Weber's report of a relationship between Kotz and Kachroo suggests that either Weber or Maloney was confused during their March 21<sup>st</sup> meeting with regards to who sent Kotz the personal text message. Maloney was aware of flirtatious email correspondence between Kotz and (b)(7)(C) because Sullivan reported it to her. However, Weber said he was told by Maloney that the text messages were between Kachroo and Kotz. This investigation was not able to resolve this discrepancy, and after an exhaustive search, investigators did not find any text messages or emails fitting the description outlined in Weber's complaint.]



### Interview of Noelle Maloney, Deputy IG

Maloney explained to investigators that she sent a letter to the CIGIE IC dated April 23, 2012. In her letter, Maloney disputed a number of statements made by Weber in his March 23<sup>rd</sup> letter, including the claim that Maloney told him Kachroo and Kotz were having an affair. Maloney's letter stated, "I do not now nor have or had at any time, actual knowledge of an affair or sexual relationship between Mr. Kotz and Dr. Kachroo, and I have no knowledge nor have I seen any evidence that Dr. Kachroo has received any 'special treatment' by the SEC OIG" (Exhibits 9, lines 1547-1549, and 27).

Maloney indicated she had been orally admonishing Weber for conduct issues (time & attendance, report writing/management, etc.) since he started with the SEC OIG. None of the discipline was formally documented or shared with other members of management, but was informally documented in her notes and emails. Maloney believed that once Weber filed his complaint with the Commissioners and was reassigned to work for Wilson, he "steamrolled" Wilson and his aggressive behavior grew, leading to the complaints of a hostile work environment (Exhibit 9, lines 760-795, 2315-2322, 465-487 and 565-574).

### Interview of (b)(7)(C)

(b)(7)(C) explained that in February 2012, Weber approached her about a case he was interested in obtaining information for and asked her to conduct research into it. The following day, (b)(7)(C) told Weber the research was done and asked him if Maloney was okay with her doing this research on this case for him. Weber assured her Maloney was okay with this work. (b)(7)(C) said Maloney came to her office later the same day to check in on her status and projects. (b)(7)(C) told Maloney what she was working on for Weber and Maloney stated she did not authorize anyone to work on this case (Exhibit 63).

### Interview of (b)(7)(C) (b)(7)(C) SEC OIG (b)(7)(C)

(b)(7)(C) explained to Postal Service OIG investigators that shortly after (b)(7)(C) began working for Weber, he informed (b)(7)(C) needed to start working (b)(7)(C) until (b)(7)(C) completed (b)(7)(C) current case. (b)(7)(C) agreement upon being hired at the SEC was to only (b)(7)(C). Weber told (b)(7)(C) that he had already met with Maloney, who agreed that (b)(7)(C) needed to work (b)(7)(C) until (b)(7)(C) case was complete. (b)(7)(C) later asked Maloney about the meeting with Weber. Maloney told (b)(7)(C) she never met with Weber on this issue and that Weber's statements were all false. Maloney followed up with an email to (b)(7)(C) confirming that what Weber told (b)(7)(C) was not true (Exhibit 36).

On a different day, (b)(7)(C) was discussing one (b)(7)(C) ongoing investigations with Weber and Wilson. While in the meeting, Weber called the U.S. Attorney's office to discuss the case. The Assistant United States Attorney (AUSA) they spoke with initially said he would decline the case unless they provided additional evidence. Weber quickly started making up evidence in hopes of getting the AUSA to accept the case. Weber told the AUSA the case also involved matters of national security, and alluded to possible espionage. When Weber hung up the phone, (b)(7)(C) told both Weber and Wilson that Weber fabricated the facts to the AUSA and (b)(7)(C) was concerned that the organization's reputation would be affected, along with the possibility of (b)(7)(C) being debarred as a result of the fabrication. (b)(7)(C) said Weber raised his voice, told (b)(7)(C) he was handling the case and (b)(7)(C) on this case.

#### Interview of Jacqueline Wilson, AIGA

Wilson told investigators she was present for the teleconference between Weber, (b)(7)(C) and the AUSA related to one of (b)(7)(C) investigations. During the teleconference, Wilson felt that Weber "over-inflated and stretched" the subjects' citizenship impact on the investigation, calling them "foreign nationals." Weber repeatedly used terms involving "national security" while he was describing the allegations and investigation to the AUSA. When Weber continued to use the phrase, Wilson "pulled" Weber back and corrected him. This correction occurred during the course of the teleconference. After the teleconference, a discussion continued regarding the case. Weber accused (b)(7)(C) of second-guessing him and not supporting his efforts for the Office of Investigations. (b)(7)(C) responded that she had concerns regarding Weber's statements and conduct. The discussion became heated, and Wilson ended the conversation (Exhibit 35).

#### Interview of (b)(7)(C) SEC Human Resources

(b)(7)(C) explained that on April 10, 2012, Weber asked (b)(7)(C) to come to his office on the second floor. (b)(7)(C) did not know Weber and did not expect the call. Weber wanted to discuss adverse personnel actions related to two SEC employees who were investigated by the SEC OIG. When (b)(7)(C) met Weber, she could tell he was upset by his body language and tone. Weber was upset because one employee was allowed to resign from the SEC, even though the employee had been investigated by the SEC OIG on two occasions. (b)(7)(C) said Weber was unprofessional and rude during the entire meeting. Weber apologized for being rude, but continued to be rude. Weber told her that if (b)(7)(C) could not do her job, he would find someone who could. (b)(7)(C) felt this was a threat to her job and an attempt to intimidate her (Exhibit 69).



Interview of (b)(7)(C) (b)(7)(C)

During her interview, (b)(7)(C) could not recall the specific details, but described an instance when Weber discussed information with an AUSA that was not approved for dissemination by the Commissioners. (b)(7)(C) said Wilson was present and she (Wilson) counseled Weber after the meeting to be more accurate (Exhibit 49).

Interview of (b)(7)(C)

During his interview, (b)(7)(C) said that Weber never lied to him or acted inappropriately toward him, but his evidence of Weber's misconduct comes from stories told by his peers. (b)(7)(C) described Weber as having aggressive, creative, and "outside the box" ideas about investigations (Exhibit 64).

#### Interview of David Weber, AIGI

On March 22, 2012, Weber briefed the SEC commissioners regarding concerns that two investigations may have been affected by relationships between Kotz and key individuals in each investigation. He explained to the Commissioners that Maloney told him that she had personal knowledge of an intimate relationship between former IG Kotz and Kachroo, and that Kachroo received "special treatment" as a result of that relationship. Additionally, Maloney shared with him that she questioned whether the SEC OIG would have opened the Stanford Receivership investigation at all if not for that relationship. He sent a letter to the CIGIE IG the following day outlining the same allegations (Exhibit 25, lines 2165-2168, 2211-2220, 2262-2271, 3061-3067).

When asked if he told any of the Commissioners that he learned of the allegations involving Kotz from someone other than Maloney, Weber replied, "No, absolutely not." During his briefings with the Commissioners on March 22, 2012, Weber did not reveal Kachroo's name, referring to her only as a "key witness." Weber called Kachroo a "key witness" because he did not know if he could release Kachroo's name under the IG Act (Weber did not know if she was she a "protected party"). Weber was also not sure if he could or should release Kachroo's name to protect the OIG's independent authority (Exhibit 70).

Weber told investigators that following the disclosure from Maloney on March 21, 2012, he did not investigate Kotz or Maloney. Weber admitted that at first, he thought he and others at the SEC OIG could investigate both issues since they had no conflicts concerning the allegations. However, after Weber consulted with one of his investigators (b)(7)(C) had told Weber he could not conduct the investigation), he realized

the matter would have to be handled by another group or organization (Exhibit 25, lines 3242-3249, 3288-3317, 3349-3351, and 3358-3366).

With regards to his telephone conversation with an AUSA regarding an investigation with national security implications, he explained that the case involved unencrypted computer hard drives that contained sensitive stock exchange information. He believed that the issue was significant enough that it had national security implications and that is why he made that statement to the prosecutor (Exhibit 59, lines 2116-2117, 2137-2149, 2212-2260, and 2267-2273).

Weber was asked about a request for investigative support he made to (b)(7)(C) and whether it had been approved by Maloney. Weber said (b)(7)(C) had experience in conducting the research he needed. Weber discussed the research with Maloney and told her (Maloney) that he intended to have (b)(7)(C) conduct the work. Maloney did not object to (b)(7)(C) conducting the work. The next day, Maloney told Weber to cease work on the investigation (Exhibit 70).

<p><b><u>Summary of Findings:</u></b> The evidence above did not establish that Weber made any intentional false statements or engaged in deliberately unprofessional conduct (such as mischaracterizing evidence to prosecutors).</p>
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## V. EXHIBITS

1. Memorandum of Activity: Review of H. David Kotz' Official Personnel Folder
2. SEC Press Release: "H. David Kotz Named New Inspector General at SEC," dated December 5, 2007
3. Bloomberg article: "SEC Inspector General Kotz Quits For Private Investigation Firm," dated January 18, 2012
4. SEC OIG Semiannual Report to Congress (October 1, 2011 to March 31, 2012), pages i, 1-3, 5, 6
5. Memorandum of Activity: Review of Noelle L. Maloney's Official Personnel Folder
6. Resignation email tendered by Noelle Maloney, dated August 15, 2012
7. Memorandum of Activity: Contact with Noelle Maloney's Counsel
8. Memorandum of Activity: Review of David P. Weber's Official Personnel Folder
9. Memorandum of Interview: Noelle Maloney (transcript)
10. Vanguard Leaders article: "Dr. Gaytri Kachroo"
11. AM Law Daily article: "Lawyer for Madoff Whistleblower Launches Own Firm," dated October 6, 2009
12. The Advocate article: "Investors may join lawsuit," dated January 24, 2011
13. Letter from Dr. Gaytri Kachroo to H. David Kotz, dated July 8, 2011
14. Letter from Dr. Gaytri Kachroo to H. David Kotz, dated September 26, 2011
15. Memorandum of Interview: (b)(7)(C) (b)(7)(C)
16. SEC Human Resources documents for (b)(7)(C) (b)(7)(C)
17. SEC OIG Report No. 461: Review of the Commission's Restacking Project, dated March 31, 2009
18. Memorandums of Interview: Mary Beth Sullivan
19. SEC OIG Report No. OIG-509: Investigation of Failure of the SEC to Uncover Bernard Madoff's Ponzi Scheme (Public Version), pages 1, 2, and 20-41)
20. U.S. Department of Justice Press Release #12-756: "Allen Stanford Sentenced to 110 Years in Prison for Orchestrating \$7 Billion Investment Fraud Scheme," dated June 14, 2012
21. Draft SEC OIG Report No. OIG-565: The SEC's Recommendation of and Oversight Over the Court-Appointed Receiver in *SEC v. Stanford* (unpublished, not all attachments included)
22. Memorandum from David P. Weber to the CIGIE Integrity Committee, dated March 23, 2012
23. Referral letter from Noelle Maloney to the CIGIE Integrity Committee, dated 26, 2012
24. Response letter from CIGIE Integrity Committee to SEC Chair Mary Schapiro, dated May 11, 2012
25. Memorandum of Interview: David Weber (transcript)
26. Memorandum of Activity: Polygraph examination of David P. Weber

27. Response Letter from Noelle Maloney to the CIGIE Integrity Committee, dated April 23, 2012 (and related emails)
28. Email from Kachroo to Maloney, dated March 16, 2012
29. Memorandum of Interview: Commissioner Daniel Gallagher
30. Memorandum of Interview: Mary Beth Sullivan (transcript)
31. Memorandum of Interview: Former senior SEC OIG official
32. Memorandums of Interview (MOIs): David Witherspoon
33. CNBC article: "SEC Probing Stanford Receiver for Keeping \$118 Million," dated July 21, 2011
34. Memorandums of Interview: Elizabeth Fitzgerald
35. Memorandums of Interview: Jacqueline Wilson
36. Memorandums of Interview: (b)(7)(C) (b)(7)(C) and Outlook appointments (2)
37. Memorandum of Interview: (b)(7)(C)
38. Memorandums of Interview: (b)(7)(C)
39. Representative sampling of email correspondence between H. David Kotz and Dr. Gaytri Kachroo
40. Versions of H. David Kotz' personal business plan and related emails (multiple dates)
41. Major, Lindsey & Africa on-line biography for Jane Roberts
42. CIGIE Quality Standards for Inspection and Evaluation, dated January 2012
43. CIGIE Quality Standards for Investigations, dated November 15, 2011
44. Code of Federal Regulations – Standards of Ethical Conduct for Employees of the Executive Branch - §2635.501 and §2635.502
45. Memorandum of Interview: H. David Kotz
46. Memorandums of Interview: (b)(7)(C)
47. Memorandum from U.S. Postal Service OIG Office of Audit: Review of the Securities and Exchange Commission Office of Inspector General Workpapers and Final Report Addressing the Securities and Exchange Commission's Restacking Project
48. Email between (b)(7)(C) (b)(7)(C) and H. David Kotz, dated September 29, 2008
49. Memorandums of Interview: (b)(7)(C)
50. Memorandum of Interview: (b)(7)(C)
51. Memorandum of Interview: (b)(7)(C) (b)(7)(C)
52. Memorandums of Interview: (b)(7)(C) (b)(7)(C)
53. Memorandum of Interview: (b)(7)(C)
54. Notice of Placement on Administrative Leave, issued to David P. Weber, dated May 8, 2012
55. Email with subject line "FW: Supervisory General Attorney (Assistant IG for Investigations)," sent from Noelle Maloney to David Weber, dated October 31, 2011
56. Memorandum of Interview: (b)(7)(C)
57. Memorandum of Interview: Travis Elliott

- 58. Emails regarding David Weber, various dates
- 59. Memorandum of Interview: David Weber (transcript)
- 60. Memorandum of Interview: Chuck Tobin (Attachment 4 not included)
- 61. Memorandum of Interview: Jim Burns
- 62. Memorandums of Interview: (b)(7)(C) (b)(7)(C)
- 63. Memorandum of Interview: (b)(7)(C)
- 64. Memorandums of Interview: (b)(7)(C) (b)(7)(C)
- 65. Email from Noelle Maloney to Barry Walters, dated February 10, 2012
- 66. Memorandum of Interview: Officer (b)(7)(C), Hyattsville, MD Police Department
- 67. Emails from Noelle Maloney dated March 22, 2012, and April 2, 2012
- 68. SEC Freedom of Information Act request number 12-02727-FOIA and associated documents
- 69. Memorandum of Interview: (b)(7)(C) (b)(7)(C)
- 70. Memorandum of Interview: David Weber